

Shelby County, Tennessee Analysis of Impediments to Fair Housing

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Prepared by:

Brewer & Barlow PLLC

TABLE OF CONTENTS

ABOUT THE AUTHOR	3
EXECUTIVE SUMMARY	5
ANALYSIS OF DEMOGRAPHIC AND ECONOMIC CHARACTERISTICS OF SHELBY COUNTY AND IMPLICATIONS FOR FAIR HOUSING	29
RACIAL AND ETHNIC COMPOSITION AND TRENDS	29
RACIAL COMPOSITION	31
DENSITY	32
INCOME AND POVERTY DEMOGRAPHICS	37
POPULATION	38
POVERTY RATES	38
HOUSEHOLD INCOME	39
DEMOGRAPHICS REGARDING HOUSEHOLD COMPOSITION	43
EMPLOYMENT	46
ANALYSIS OF EXISTING HOUSING STOCK	48
IMPEDIMENTS AND RECOMMENDATIONS FOR AN ACTION PLAN	66
CONCLUSION	108

AUTHOR OF THE ANALYSIS

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- Assist homeowners in avoiding foreclosure;
- Protect the rights of people with disabilities in housing, employment, education, and public accommodations;
- Assist clients who are victims of illegal discrimination;
- Protect foreign nationals from persecution and exploitation;
- Protect individuals from domestic violence and stalking;
- Advocate for decent and affordable housing;
- Ensure access to quality health care for all;
- Promote environmental justice;
- Ensure access to high- quality free public education;

- Assist clients in Social Security and SSI claims;
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EXECUTIVE SUMMARY

Shelby County, Tennessee continues to have a high degree of racial, economic, and cultural segregation. This Analysis is an examination of the current characteristics of the county, and particularly the areas outside the City of Memphis, which make up the Shelby County urban-rural consortium. The consortium consists of the Shelby County government and six municipalities in Shelby County outside the City of Memphis. The geographical area covers all of Shelby County outside the Memphis city limits. Of course, this area cannot be analyzed in a vacuum, and must be seen within the context of the City of Memphis and the Memphis MS –AR Metro Area. There is a great deal of flux as people move to and from Memphis, Shelby County, and even beyond the county and state lines. This Analysis is intended to assist the Consortium and its members to ensure, to the greatest extent possible, equal housing opportunities for all area residents, those who live in the geographical area of the Consortium, and those who may desire to live there.

This Analysis of Impediments to Fair Housing Choice is divided into three major areas: an analysis of the economic and demographic characteristics of the area, identification of barriers to fair housing choice, and recommendations of actions to address the impediments. For ease of reading, the identification of barriers and recommendations are combined.

Some of the most relevant economic and demographic characteristics identified include:

- The percentage of blacks or African- Americans in Shelby County has increased from 43.6% to 52.1% from 1990 to 2010, while there has been a corresponding decrease in white residents from 55.1% to 40.6% over the same time period.
- The percentage of people of Hispanic ethnicity has risen from 0.8% in 1990, to 5.6% in 2010 according to census data. The Asian population has increased from 0.9% to 2.3% and the percentage of Native Americans or American Indians has increased from 0.2% to 2.3%.
- The percentage of black or African-American residents of the City of Memphis has increased from 51.5% in 1990 to an estimated 63.0% in 2009. The percentage of white residents of the City of Memphis has dropped from 47.3% in 1990 to an estimated 31.6% in 2009.
- Over the period from 1990 to 2009, there has been faster growth by blacks or African-Americans than whites in the areas of Shelby County outside the City of Memphis. In 1990, whites made up 86.5% of the Shelby County population outside of Memphis and blacks or African-Americans made up only 11.5%
- By 2009, according to estimates, the African-American population in Shelby County excluding Memphis had risen to 24.9%, while the white population had fallen to 69.9%.
- One Consortium member, Germantown, Tennessee, was made up of 89.5% white residents according to 2010, down only slightly from the 2000 figure of 93%. African-American residents in Germantown have only increased by 1.3% over the decade from 2.3% to 3.6%.

- **Bartlett has had the biggest shift in racial demographics, having an increase in African-American population from 4.9% to 16.1% over the last decade and a reduction of white population from 92.4% to 78.7%.**
- **According to census data, Arlington, Tennessee has become less diverse over the last decade. There the percentage of white population has increased from 73.7% to 81.1% and the African-American population has decreased from 23.0% to 13.9%.**
- **According to 2000 census figures, average household income for Caucasians in Shelby County was \$69,345; average household income for Hispanics of any race was \$52,509; and average household income for African-American households was \$37,098.**
- **From 2000 to 2009, median household incomes (adjusted to 2009 dollars) grew by 2.0% in the Memphis MSA; grew by 2.6% in Shelby County; and fell by 1.2% in the City of Memphis.**
- **Only 6% of the people in Shelby County outside the City of Memphis live at or below the poverty level. By contrast, almost 25% of the people within the City of Memphis live at or below the poverty level.**
- **At the other end of the spectrum, 45% of the people of Shelby County outside Memphis have annual incomes that are 500% or more greater than the poverty level, compared to 16.6% within the city.**
- **Areas with higher density of people of color have lower household incomes and areas that have higher concentrations of whites have higher household incomes.**

- **2010 census figures show that there are 76,028 female –headed families throughout Shelby County, and 41,339 of those households have children under the age of 18.**
- **Areas in Shelby County with higher percentages of people of color have larger households than those that have higher percentages of white families.**
- **The home ownership percentage for residents of the City of Memphis had fallen to 43% in 2009 from 51.8% in 2000 according to information from Demographics Now.**
- **The rate of homeownership in Shelby County excluding the City of Memphis had fallen from 79.6% in 2000 to 66.3% in 2009; however, the incidence of homeownership in the consortium area was still 23.3% higher than in Memphis.**
- **Between 2000 and 2007, the number of foreclosure notices published in Shelby County increased from 4,609 in 2000 to 10,515 in 2007. This is a 157% increase.**
- **According to figures from the Shelby County Tax Assessor’s office, there were more foreclosures and “distressed” sales in Shelby County in 2008 than “arm’s length” sales between willing sellers and willing buyers.**
- **According to Realty Tract figures for April of 2008, 42% of foreclosures statewide were in Shelby County and Shelby County foreclosures were more than four times the number in Davidson County (Nashville), which had the next highest number in the state, even though their populations are comparable.**
- **In ten Zip Code areas in Shelby County with a high concentration of African-American residents (more than 70% according to the 2000 census), 56 % of**

loans made in one recent year were sub-prime loans as compared to 36 % for Shelby County as a whole.

- In 14 Zip Code areas with high concentrations of Caucasian residents (more than 70 %) only 24 % of the residential mortgage loans made in the same year were sub-prime loans. More than 4% of the owner-occupied homes in predominantly African-American Zip Code areas were foreclosed in 2008 compared to 1% of the owner-occupied homes in predominantly Caucasian Zip Code areas.**

The following section is a summary version of impediments to fair housing identified through the analysis along with recommended actions to address the impediments.

Impediment # 1. There is an inadequate supply of decent, affordable housing for people of low and moderate income in Shelby County, as a whole, and particularly in areas outside the City of Memphis.

When demographic data showing substantial disparities in income and wealth between racial and ethnic groups is considered, the lack of decent, affordable housing must be seen as a fair housing issue. Likewise, substantial disparities in income and wealth exist between people with disabilities and those without, as well as female-headed households. Members of protected classes need affordable housing more than non-members and the affordable housing that does exist in Shelby County tends to be in “urban deserts” that are made up of heavy concentrations of protected class members. This segregates protected class members into pockets of the community with low opportunity for quality employment, education, medical care, healthy food, and transportation.

Impediment # 1. a) Standard rents exceed the Fair Market Values established by HUD and Memphis Housing Authority for Housing Choice Voucher holders

Rental prices in much of unincorporated Shelby County and the cities making up the consortium exceed the Fair Market Rents established by HUD for the Memphis area. This reflects a wide disparity in rental values throughout the county and has the effect of concentrating Housing Choice voucher holders in “impacted area” that have an extremely high percentage of residents who are members of racial and ethnic minorities.

Recommended Action # 1. a) Memphis Housing Authority Should Seek to Participate in HUD’s Small Area Fair Market Rent Demonstration Project and, Possibly, Consider Raising Approved Rental Amounts to 120% of the Established Fair Market Rents.

HUD has created a Small Area Fair Market Rent Demonstration Project (SAFMR) to break the calculation of fair market rents down to a Zip Code or county level. By this method, the fair market rent for a unit in Germantown, for example, would be substantially different than for a home in south Memphis or Frayser. It is readily apparent that this change would have a drastic effect on expanding housing opportunity into “high opportunity areas” with access to jobs, good schools, healthy food, and quality medical care for voucher holders. Memphis Housing Authority did not make application for the demonstration project. If there is a second opportunity to apply, MHA should seriously consider doing so. Another possible action that MHA could take to help expand housing choice into high opportunity areas would be to raise approved rental amounts 120% of the fair market rents established through HUD’s methodology.

Impediment # 1. b) There is a limited amount of Low Income Housing Tax Credit Development in Shelby County

Few developers have elected to use this kind of financing for developments in unincorporated Shelby County and the cities making up the consortium. This is a major impediment to development of more affordable housing in those areas.

Recommended Action # 1. b) Concerted Effort Should Be Made By Local Governments to Encourage Local Developers to Use LIHTC Funds to Build and Renovate Affordable Multi-Family Housing in Non-Impacted Areas.

Local governments could play a much more active role in identifying affordable housing needs and soliciting and encouraging potential developers to make proposals for LIHTC projects.

Local governments should take a more proactive approach and, to the extent permitted by IRS regulations and other applicable law, offer incentives that would make LIHTC projects more appealing and feasible to potential developers. This could include such ideas as land grants or subsidies and local property tax incentives. . Local governments could also play a critical role in providing technical assistance to help encourage promising LIHTC proposals in Shelby County.

Impediment # 1. c) Land Acquisition Costs

The wide disparity in property values between “impacted areas” and those in other areas, particularly those in unincorporated Shelby County and the cities making up the consortium, make development of affordable housing in those areas very difficult, if not impossible.

Recommended Action # 1. c) The Shelby County Government and the Other Members of the Consortium Should Actively Support the Creation of an Effective Land Bank to Facilitate the Development of Affordable Housing

One of the major factors that tends to keep affordable housing concentrated in low-opportunity, high-poverty, urban deserts is land acquisition costs. The members of the consortium should actively support the efforts to allow local governments to more effectively use property acquired at tax sale to support development of affordable housing, especially in areas of potentially higher opportunity, by making land grants or facilitating low-cost land acquisition.

Impediment # 1. d) Tax Rates for Rental Housing Make It Difficult to Provide Decent, Affordable Housing.

Currently, multi-family housing is considered “commercial” or “industrial” for property tax purposes and taxed at the rate of 40%, as compared to property that is classified as single-family,

duplex, or condominium residential property, which is taxed at 25%. The tax rate makes it difficult for developers to provide affordable housing without a substantial government subsidy.

Recommended Action # 1. d) Local Governments Should Consider Revising the Property Tax Structure to Lower the Rate for Multi-Family Developments That Make Specific Commitments to Affordable Housing.

Local governments should consider reducing tax rates for multi-family housing where a fixed number of units are committed to affordable housing as an incentive to get developers to commit to providing housing for low and low-moderate income people.

Impediment # 1. e) The Rural Urban Consortium Gets a Relatively Small Amount of Community Development Block Grant and HOME Funds

In many jurisdictions, these HUD-administered funds are used to subsidize and incentivize the development of affordable housing; however, unincorporated Shelby County and the cities making up the consortium get a relatively small amount of these funds compared to the City of Memphis. This leads to a situation in which the affordable housing development that occurs tends to be in “impacted areas” within the city- further exacerbating racially segregated housing patterns.

Recommendation #1. e) No recommendation.

Impediment # 1. f) Lack of Other Resources and Incentives to Develop Affordable Housing in the Consortium Area.

It is difficult to develop affordable housing, especially for the very poor without substantial subsidies or other incentives. There are little or no other governmental or philanthropic resources or incentives for affordable housing development within the geographical area of the consortium.

Recommended Action # 1. f) Support for Creation of a County-Wide Housing Trust

One potential source of funding for affordable housing and other special housing needs is creation of a local, county-wide Housing Trust. Several years ago a large and diverse group of stakeholders worked as a commission to explore opportunities for creation of such a Housing Trust. To the extent that these efforts continue, the Shelby County government and members of the consortium should actively support and participate in them.

Impediment # 2. There is a Lack of Accessible Housing for People with Disabilities Throughout Shelby County.

Much of the multi-family housing stock in Shelby County was built and occupied before the accessibility requirements of the Fair Housing Amendments Act went into effect in March of 1988. Two HUD-funded studies in the last decade performed jointly by the Memphis Center for Independent Living and the Memphis Fair Housing Center have documented wide-spread non-compliance with the design and construction requirements of the FHAA in those complexes that were occupied after March of 1988. The result is a critical dearth of accessible housing for people with disabilities throughout Shelby County.

Impediment # 2. a) The Construction Code Office Should Take a Much More Active Role in Inspecting for Compliance with the Fair Housing Amendments Act in New Residential Construction.

Two HUD- funded surveys of multi-family housing first occupied after the effective date of the Fair Housing Amendments Act revealed very widespread violations of the Act. Four lawsuits were brought and numerous administrative complaints were filed as a result of the survey findings and a large number of barriers were eliminated. The obvious question this fact engenders is why these violations were not identified and remedied before construction was completed and Certificates of Occupancy issued. Comprehensive and ongoing training on the architectural barriers requirements of the FHAA and creation of a specific checklist for

compliance with the FHAA in all covered new construction developments is strongly recommended..

Recommended Action # 2. b) Shelby County and Municipalities in the Consortium Should Try Informally to Force Owners of Multi-Family Housing Complexes Within Their Jurisdictions to Cure Documented Violations of Law and, When Necessary, Bring Administrative Complaints or Civil Lawsuits to Force Compliance.

The Fair Housing Act has very broad standing provisions and the local governments could maintain such an action. If litigation proved to be necessary, a “prevailing party” may recover attorney’s fees in addition to monetary damages and injunctive and declaratory relief. Finally, one or two such actions would give tremendous leverage in getting voluntary compliance from others.

Recommended Action # 2. c) Consortium Members Should Consider Creating a Revolving Fund to Allow Homeowners and Tenants in Non-Covered Rental Units to Make Modifications Permitted by Law to Make Their Homes Accessible.

The vast majority of rental housing developments covered by the FHAA have illegal barriers to accessibility. Perhaps the greater problem is that the vast majority of rental housing units are not covered by the FHAA, primarily because of the age of the property. The FHAA permits tenants with disabilities to make modifications, at their own expense, to their homes to make them accessible. People with disabilities have statistically less income than others and are often unable to avail themselves of this right. One potential solution is the creation of a need- based revolving fund to permit a disabled tenant to make necessary modifications.

Recommended Action # 2. d) Shelby County and the Municipalities Making Up the Consortium Should Join with HUD, the City of Memphis, and Advocacy Groups to Sponsor Quality Training on Accessibility Issues.

In recent years, HUD, the City of Memphis, the Memphis Fair Housing Center, the Fair Housing Alliance of Greater Memphis, and the Memphis Center for Independent Living have put on several training events regarding accessibility requirements for architects, civil engineers,

lawyers and others. The county and consortium members should actively participate and help underwrite and/or sponsor such events in the future.

Recommended Action # 2. e) Any Residential Housing Supported With CDBG or HOME Funds Should Be Conditioned on Compliance With Visitability Standards.

There are no laws or ordinances that require residences not covered by the FHAA or Section 504 of the Rehabilitation Act be accessible to visitors who have disabilities; however, progressive public policy would dictate that public funds used to provide housing should carry this requirement. The requirement should apply only to funds used for building or substantially renovating housing. For example, if money were provided to repair a roof, it should not kick in a requirement to eliminate steps or widen doorways. On the other hand, if doors are being replaced, the new doors should meet universal design requirements.

Impediment # 3. Rental Property Managers Throughout Shelby County do not Understand the Duty to Make Reasonable Accommodations for People with Disabilities.

There have been innumerable complaints to the Memphis Fair Housing Center involving attempts to evict a tenant with a psychiatric disability after the tenant has gotten off medication and has begun to engage in behavior that annoys other tenants or management.

Recommended Action # 3. Much More Extensive Training Should Be Provided to Landlords or Managers of Rental Housing Regarding the Duty to Make Reasonable Accommodations for People with Disabilities.

All people with disabilities are entitled to “reasonable accommodations” to allow them to enjoy the benefits of housing opportunities on the same terms as people without disabilities. This is probably the least understood and most misinterpreted provision of fair housing laws. Because this is such a misunderstood area of law, the members of the Consortium should join forces with the City of Memphis, HUD, and advocacy groups to provide concentrated training in the area of reasonable accommodations.

Impediment # 4. There is Abundant Evidence of Discriminatory Lending Throughout Shelby County, Which Ultimately Denies Protected Class Members Housing Choice and Quality of Life.

Historically, lending discrimination was measured by denial of credit; however, the explosion of predatory and sub-prime lending changed the paradigm to a point that almost anyone could get a mortgage loan. The relevant issue became the terms of credit, rather than the denial rate.

Memphis and Shelby County were hit extremely hard by the explosion of predatory and subprime lending that ultimately caused the collapse of the national economy.

The mortgage lending crisis is not a racially or ethnically neutral phenomenon. There is a large amount of data that supports the fact that “reverse redlining” was rampant throughout Shelby County. Reverse redlining is a lending practice whereby people in predominantly minority communities are targeted for exploitative loans, particularly refinance or equity loans.

As a result, more than 4% of the owner-occupied homes in predominantly African-American Zip Code areas were foreclosed in 2008 compared to 1% of the owner-occupied homes in predominantly Caucasian Zip Code areas. It is easy to see that this pattern, spread over a decade has caused exponentially greater damage in the African- American community than elsewhere.

It is not just families who have gotten bad loans that are harmed by irresponsible lending. The cumulative effect of several foreclosures in a neighborhood adversely affects the values of all the rest of the homes. In some neighborhoods, values have fallen by well over 50% over the past few years. This affects people who didn’t even take bad loans. Many foreclosed houses remain vacant for long periods and become magnets for crime, vagrants, and fires. Ultimately, this leads to blighting, which harms the individuals who lose their homes, neighbors whose property values and quality of life suffer, and, in the end, the entire community suffers.

Recommended Action # 4. a) Shelby County Should Press Forward With Its Federal Litigation Against Wells Fargo.

The Shelby County Commission voted to authorize litigation against as many as sixteen national mortgage lenders who had engaged in reverse redlining and contributed greatly to blighting in primarily African- American communities. The County Commission appropriated \$125,000.00 to fund the first stages of the litigation. The City of Memphis followed suit and also appropriated \$125,000 for the litigation.

In December of 2009, the City of Memphis and Shelby County initiated a federal lawsuit against Wells Fargo, based upon the Fair Housing Act, alleging that they had been damaged by blighting as a result of the Wells Fargo's targeting of African-American communities for risky high-cost loans that resulted in foreclosure at extraordinarily high rates.

A decision was made to bring an initial action against Wells Fargo because its lending practices stood out from other lenders who had engaged in reverse redlining. Between 2000 and 2008, the rate at which Wells Fargo loans went to foreclosure (or "death rate") in predominantly African-American neighborhoods was eight times greater than in predominantly Caucasian neighborhoods. This is twice the overall disparity of four to one in Shelby County.

In addition to damages for loss of tax revenue and costs associated with blighting caused by Wells Fargo's lending practices, Shelby County and the City of Memphis seek other equitable relief that would benefit many Wells Fargo borrowers. Specifically, they seek to get injunctive relief to prevent Wells Fargo from foreclosing on residential properties without going through court-supervised mediation and an order requiring the bank to make premium loans to qualified borrowers in African-American neighborhoods.

Wells Fargo has tried to get the case dismissed for lack of standing; however, in a ruling earlier this year the U.S. District Judge who has jurisdiction of the case has ruled that the local governments do have standing to proceed with the case and it is now moving forward.

Recommended Action # 4. b) Shelby County Should Follow Through on the County Commission's Resolution to Bring Similar Actions Against Others Lenders Who Have Contributed to The Blighting Problem Through Their Discriminatory Lending Practices.

Although Wells Fargo's discriminatory lending practices may have been the most egregious in Shelby County, they were by no means the only national mortgage lender engaging in reverse redlining or discriminatory lending.

Given the devastation caused to minority communities and the financial damage to the county as a whole by reverse redlining the county and city governments should expand the litigation started with Wells Fargo and hold other lenders who engaged in discriminatory lending accountable for their portion of the damages suffered locally. The Wells Fargo litigation is a successful template for similar actions against other bad actors and there is already a lot of evidence accumulated to support those cases. Moreover, the initial litigation fund has not nearly been depleted. The litigation is a wise investment in the county's future.

Impediment # 4. c) Foreclosures

Discriminatory lending often leads ultimately to foreclosure. There is overwhelming documentation that the enormous problem of foreclosures in Shelby County is concentrated disproportionately in identifiably African-American communities.

Recommended Action # 4. c) (2) Alternatively, Shelby County Should Consider an Ordinance That Would Require Mediation Before Foreclosure.

The City of Providence, Rhode Island has passed such an ordinance, which has been challenged as being unconstitutional in appellate courts. Thus far the ordinance has been

upheld. A similar ordinance was passed in Las Vegas, Nevada and is currently being challenged by Wells Fargo after an adverse ruling.

Impediment # 4. d) Shadow inventory/ bank owned properties

There is abundant evidence that foreclosed properties remain vacant for significantly longer periods in African-American communities than in others, which contributes to blighting. There is growing evidence that there is a graphic difference in the ultimate disposition of foreclosed properties in African-American neighborhoods versus predominantly Caucasian ones with much greater percentage of owner-occupied housing being converted to rental housing in African-American neighborhoods. There is also evidence that there is no effort to offer foreclosed properties for sale on the open market in many African-American neighborhoods, which further contributes to blighting.

Recommended Action # 4. d) Shelby County Should Bring Actions in Environmental Court Against Banks and Investors Who Fail to Maintain Vacant, Foreclosed Properties to Combat Blighting in Minority Neighborhoods.

One of the most harmful results of discriminatory lending and the foreclosures is that it causes blighting. Blighting drives down property values and quality of life. When banks and mortgage lenders make irresponsible loans that result in excessive foreclosures it does great damage to the community. When those foreclosures are heavily concentrated in specific areas, it does even more damage. When the same banks that created the problem do not actively attempt to sell properties on the open market after foreclosure and let houses sit vacant and unattended, it can be the *coup de grace* for a neighborhood. In such a case, the bank's inaction leads directly to loss of value and quality of life in neighboring properties.

Where banks or lenders have elected not to foreclose on vacant and abandoned properties; have foreclosed but refrained from recording a Trustee's Deed; have become the record owner of property but made a conscious choice not to prepare property for resale or even maintain it; or have sold bundled properties "as is" to investors who are simply stockpiling vacant properties at extremely low prices, they are creating and perpetuating a public nuisance.

Shelby County government should work in concert with the City of Memphis to identify neglected bank owned property and bring actions in the environmental court to require them to bring the property into compliance with applicable housing code standards and hold them accountable for the public nuisances they have created.

To the extent that a pervasive pattern is found with respect to a particular lender, more systemic litigation in a court of record might be considered.

Impediment # 4. e) Other Predatory Consumer Lending

There is an extremely high volume of auto title pawn and payday loan businesses in Shelby County and they are overwhelmingly located in or near identifiably minority neighborhoods. These businesses are debt traps, permitting interest rates of 300% and 264%, respectively. It is widely believed that borrowers who resort to these loans start a cycle of debt, which often escalates to a homeowner resorting to a predatory equity mortgage loan and, sometimes, foreclosure.

Recommendation # 4. e) Shelby County and Members of the Consortium Should Actively Support Legislation to Curtail Predatory Consumer Lending Practices

The Shelby County Commission passed an ordinance several years ago restricting the concentration of auto title pawn shops within a close radius of each other and proximity to

schools and churches. This ordinance was intended to stop the proliferation of these toxic businesses in areas where they were saturated; which was primarily minority areas.

The Commission has also consistently passed resolutions supporting state bills aimed at curtailing these practices. The Commission should continue to support reform legislation and make these bills a part of its legislative agenda, actively lobbying for the bills.

Impediment # 4. f) Absence of Full Service Banks in Racial and Ethnic Minority Communities

Many segments of Shelby County have few, if any, full service federally or state chartered banks, which drastically increases the incidence of predatory lending mortgage and consumer lending.

Recommendation # 4. f) Shelby County and Members of the Consortium Should Consider Adopting a Policy of Only Doing Business with Banks That Provide Services Throughout the Entire Community

The importance of citizens having access to full-service banks in their neighborhoods as a means to combat exploitative lending industries is so great that members of the consortium should consider adopting policies whereby they would only do business with banks that had a presence in all areas of the county.

Impediment # 5. Discrimination and Redlining in Homeowners Insurance Affects Housing Affordability and Quality of Life for Many Protected Class Members.

National studies and testing across the country reveal that companies frequently discriminate in the provision of homeowner's insurance. This discrimination generally takes two forms; first is the refusal to write insurance policies in certain areas that have a high number of minority residents, second is the provision of less coverage for higher premiums in minority neighborhoods. Both of these practices drive up the cost of housing in racial and ethnic minority neighborhoods.

Recommendation # 5. Shelby County and Other Members of the Consortium Should Join With the City of Memphis to Fund an In-Depth Study of Local Homeowners Insurance Underwriting.

Fair housing organizations throughout the country have done systemic insurance testing to determine if, and to what extent, insurance redlining exists in their area. These studies have, almost universally, shown substantial discrimination in insurance underwriting and have led to a number of groundbreaking lawsuits. This is such an important issue, local governments should join to fund a systemic study of national homeowners' insurance companies.

Impediment # 6. Members of the Hispanic Community in Shelby County are Heavily Concentrated in Mobile Home Parks, Which are in Flood Plains, Where They are Exploited Because of Language Barriers and Lack of Sophistication in Consumer Issues.

Catastrophic floods in May of 2010 and 2011 brought to light some very disturbing information about exploitative practices of mobile home park operators that target primarily Hispanic residents. A federal class action lawsuit has been brought on behalf of current and former residents of one mobile home park that engaged in particularly abusive and discriminatory practices.

Recommended Action # 6. a) Shelby County Should Closely Monitor Trailer Parks and Pass an Ordinance Increasing the Required Elevation of Trailers to at Least Two Feet Above the Flood Plain

The County Commission did move to require that trailers be at least one foot above the flood plain, which has caused closure of some trailer parks that have flooded recently. However, the standard should be increased to comport with best practices.

Recommended Action # 6. b) Shelby County Should Consider an Ordinance That Would Require Businesses That Actively Market and Advertise in Spanish to Provide Spanish-Language Contracts or Lease Agreements

Such a provision would impose a duty to provide Spanish- language translation ONLY if the housing provider actively advertises in print or electronic medium in Spanish. It is fundamentally

inequitable for a business to actively solicit non-English speakers or those with limited English proficiency and then present the consumer with contractual documents that they cannot read.

Recommended Action # 6. c) Shelby County and the Consortium, Through its Fair Housing Officer, Should Make a Concerted Effort to Reach Out to the Growing Hispanic Community and Should Consider Joining with the City of Memphis and Advocacy Groups to Sponsor a Fair Housing Training Aimed Specifically to Families with Limited English Proficiency

As the Hispanic population continues to grow, there is greater evidence of isolation of those with limited English- language proficiency in well-defined communities of national origin. Limited English proficiency is a great barrier to free housing choice, as is lack of familiarity with fair housing rights and laws in the United States. It would be very appropriate, and even essential, to focus concentrated effort on fair housing education specifically for members of the Hispanic community. It is strongly recommended as well that an effective relationship be established with an advocacy group like Latino Memphis Connexion, both to establish trust and gain access to the population sought. It would also be appropriate to look toward establishing a “help-line” whereby those of national origin other than the United States could get prospective help with language interpretation and basic housing rights information.

Impediment # 7. There is a Critical Shortage of Appropriate Rental Housing for Large Families Throughout Shelby County.

Demographic data shows that racial and ethnic minority families have substantially larger household sizes than those of Caucasian households. The Shelby County rental market is overwhelmingly made up of one and two bedroom apartments. Consequently, the shortage of three and four bedroom apartments constitutes a major impediment to families with children and racial and ethnic minority families. There are a substantial number of three and four-bedroom freestanding houses that would better accommodate larger families; however, it is unclear how

many of those homes are in the rental market and how many are “affordable”, especially in areas of higher opportunity.

Recommended Action # 7. a) Memphis Housing Authority Should Seek to Participate in HUD’s Small Area Fair Market Rent Demonstration Project and, Possibly Consider Raising Approved Rental Amounts to 120% of the Established Fair Market Rents to Permit More Large Families with Housing Choice Vouchers to Lease Larger Single Family Homes.

Demographic data shows that a majority of single-family dwellings have two or three bedrooms; however, many families cannot afford to rent such houses and many available houses, especially in higher opportunity areas, do not currently fit within fair market rents.

It would also be appropriate for MHA and THDA, as local administrators of Housing Choice Voucher programs, to actively recruit owners of non-owner occupied free-standing houses with three or more bedrooms to participate in the housing Choice voucher program.

Recommended Action # 7. b) To The Extent That Shelby County or Consortium Members Assist in Developing Affordable Housing Through Land Banking, Housing Trust, PILOTs, Tax Increment Financing, or in Any Other Way, It Should Condition Assistance on Inclusion of an Appropriate Number of Three, Four, or Five Bedroom Units.

Traditional public housing once played a large role in meeting the need for low-income and moderate-income large families; however, the number of traditional public housing units has been greatly diminished through demolition. To the extent that local governments become more involved in creation of affordable housing, care should be taken to match the assistance provided with the need for appropriate housing for larger families.

Impediment # 8. There is an Inadequate Public Transit System Throughout Shelby County, but Particularly in Areas Outside the City of Memphis.

Lack of public transportation service in unincorporated Shelby County and cities in the consortium prevent many protected class members from being able to live in those areas because

they cannot commute to work, school, doctors, church and other important destinations in their daily lives.

Recommended Action # 8. Shelby County Should Join with the City of Memphis and Other Municipalities in Meeting with Memphis Area Transit Authority Officials to Try to Maximize Bus Service to Residential Areas with High Proportion of Families without Automobiles.

This is a difficult issue because the Transportation Act does not require public transit companies to provide service into suburban areas; however, an effort should be made to match services with need to the maximum extent possible.

Impediment # 9. Exclusionary Zoning Prevents Many Members of Protected Classes From Living in Cities in the Consortium.

Housing codes within some of the cities in the consortium contain minimum lot size requirements, restrictions on multi-family housing, and other prohibitions that have the effect of excluding low and moderate incomes households. When demographic data showing substantial disparities in income and wealth between members of some protected classes and others is considered, these restrictions disproportionately exclude protected class members and have a segregating effect.

Recommended Action # 9. The Shelby County Fair Housing Officer, a Consultant with Expertise, and/or a Special Commission Should Thoroughly Review Zoning Codes in Municipalities Within the Consortium to Identify any Provisions That Would Unnecessarily Exclude Protected Class Members and Meet with Local Officials to Consider Alternatives.

There are sometimes very legitimate reasons for zoning requirements like minimum lot size where septic tanks, rather than sewer lines, are used for sewage disposal for example; however, where a community does not reflect the demographics of the county, especially in terms of racial and ethnic minorities any unnecessary restrictions that tend to exclude potential residents may be viewed with suspicion.

Impediment #10. Restrictive Covenants in Many Planned Developments in Unincorporated Shelby County and Cities in the Consortium Prevent Many Protected Class Members From Living in the Areas.

According to interviews with city planners and independent research, it appears that many planned developments within unincorporated Shelby County and the cities within the consortium have restrictive covenants of minimum lot sizes, square footage requirements, and other requirements and restrictions that ensure homes will be unaffordable to low and moderate income people. Again, when significant income and wealth disparities between many protected classes and others are considered, the effect is to exclude a disproportionate number of class members.

Recommended Action #10 a. To the Extent That Any Public Funds are Used to Support a Planned Development in the Consortium Area, Local Officials Should Insist That Covenants or Restrictions Should Not Have an Unnecessarily Exclusionary Effect.

To the extent that members of the consortium provide any direct or indirect assistance to private housing developments they must assure that they are not perpetuating segregated housing patterns.

Recommended Action # 10 b. Shelby County and Consortium Members Should Join with the City of Memphis, HUD, and Advocacy Groups to Offer Regular Fair Housing Training to Developers.

It would be appropriate for local governments to offer concentrated specific training to housing developers to help provide guidance as to court decisions and trends.

Impediment # 11. There are Virtually No Traditional Public Housing Units in Shelby County Outside the City of Memphis.

Perhaps the biggest adverse effect of demolition of traditional public housing units has been on large low-income families. Older public housing complexes tended to have more three, four and five bedroom apartments than are found in the private sector. This has caused some problems for those who have been “vouchered out” of public housing.

Recommended Action # 11. Memphis Housing Authority should seek to participate in HUD's Small Area Fair Market Rent Demonstration Project and, possibly consider raising approved rental amounts to 120% of the established Fair Market Rents to Help Offset the Lack of Traditional Public Housing in the Consortium Area.

There are a substantial number of three and four-bedroom freestanding houses that would better accommodate larger families; however, it is unclear how many of those homes are in the rental market and how many are “affordable”, especially in areas of higher opportunity.

Impediment # 12. Shelby County Does Not Have a Fair Housing Ordinance.

The City of Memphis passed a Fair Housing Ordinance some years ago, which contains all the prohibitions and protections of federal and state law and, in addition, prohibits discrimination based upon the source of one's income. This provision prohibits refusal to rent to otherwise qualified holders of Section 8 vouchers. The absence of an ordinance also does not send a positive message about the county's commitment to fair housing.

Recommended Action # 12. Housing Enforcement Throughout the County and to Demonstrate a Commitment to Fair Housing Enforcement.

A fair housing ordinance is not a panacea to open housing opportunity, especially when local ordinances generally mirror federal and state laws and the Tennessee Constitution significantly restricts what remedies can be provided in a municipal ordinance. Nonetheless, it is important that there be consistency, if not uniformity, in fair housing enforcement.

Impediment # 13. Shelby County no longer has a Fair Housing Officer.

The absence of a dedicated Fair Housing Officer could be interpreted as a lack of commitment to promotion of fair housing in Shelby County. The county and consortium need a focused attention

on fair housing issues and it is important to have a person who is charged with that responsibility.

Recommended Action # 13. The County Should Move as Quickly as Practicable to Fill the Position of Fair Housing Officer and Should Provide the Person Selected with Authority and Funding to do the Job Effectively.

The position has now been filled so this is no longer an issue to be addressed.

Impediment #14. Many Governmental Actions Have an Unintended Adverse Effect on Housing Choice or Create an Unintended Barrier or Impediment to Fair Housing.

Recommended Action #14. Shelby County Should Name a Designated Person, Who May or May Not be the Fair Housing Officer, to Monitor all Resolutions and Proposed Governmental Actions and Give a Report on Fair Housing Implications Prior to Official Action on the Proposal.

Governments sometimes, through administrative or legislative action, create unintended barriers to fair housing to which they are oblivious. A person with the clear authority and responsibility to monitor proposed actions and report to, for example, the County Commission periodically on any potential fair housing implications could drastically reduce the incidence of unintended consequences.

ANALYSIS OF DEMOGRAPHIC AND ECONOMIC CHARACTERISTICS OF SHELBY COUNTY AND IMPLICATIONS FOR FAIR HOUSING

Shelby County's housing patterns and conditions have been created by a complex set of factors.

Quite prominent among those factors is a long history of race discrimination. Some of the discriminatory policies and practices were factors not illegal and even mandated by law.

Examples would be Federal Housing Administration guidelines that required formal racial segregation through restrictive covenants in deeds as a condition to issuing mortgage insurance and the City of Memphis' notorious racial zoning ordinances. Others, especially after passage of the Fair Housing Act, have been pervasive acts of illegal discrimination. Economics, personal choice, transportation issues, availability of housing options, proximity to employment and a myriad of other factors have also played a significant role in the current conditions in Shelby County.

Racial and Ethnic Composition and Trends

As can be seen from the chart immediately below, there have been significant shifts in the racial demographics of Shelby County over the past twenty years.

The percentage of blacks or African- Americans in Shelby County has increased from 43.6% to 52.1% from 1990 to 2010, while there has been a corresponding decrease in whites from 55.1% to 40.6% over the same time period.

Over the same time frame there have been significant increases in other racial groups as well.

Most notably, the percentage of people of Hispanic ethnicity has risen from 0.8% in 1990, to 5.6% in 2010 according to census data. The Asian population has increased from 0.9% to 2.3% and the percentage of Native Americans or American Indians has increased from 0.2% to 2.3%.

	1990		2000		2010	
Race	Population	%	Population	%	Population	%
White	455,061	55.1	424,834	47.3	376,270	40.6
Black or African American	360,081	43.6	435,824	48.6	483,381	52.1
Asian	7,743	0.9	14,694	1.6	21,391	2.3
American Indian	1,468	0.2	n/a		2,279	2.3
Native Hawaiian and other Pacific Islander	n/a		334	0.0	441	0.0
Two or More Races	n/a		9,195	1.0	13,302	1.4
Some Other Race	1,974	0.2	10,802	1.2		
Total	826,327		897,472		927,644	
Latino / Hispanic	7,092	0.9	23,364	2.6	52,092	5.6
Not Hispanic	819,235		874,108	97.4	875,552	94.4
Total	826,327		897,472		927,644	

According to statistics from Demographics Now, the percentage of black or African-American residents of the City of Memphis has increased from 51.5% in 1990 to an estimated 63.0% in 2009. The percentage of white residents of the City of Memphis has dropped from 47.3% in 1990 to an estimated 31.6% in 2009.

Over the period from 1990 to 2009, there has been faster growth by blacks or African-Americans than whites in the areas of Shelby County outside the City of Memphis. In 1990, whites made up 86.5% of the Shelby County population outside of Memphis and blacks or African-Americans

made up only 11.5%. By 2009, according to estimates, the African-American population in Shelby County excluding Memphis had risen to 24.9%, while the white population had fallen to 69.9%. In terms of raw numbers, the African-American population had risen from 18,844, to 74,627 while the white population had risen from 142,171 to 209,762.

Even with the noted changes, there is a pretty stark contrast between the racial and ethnic characteristics of the City of Memphis and the rest of Shelby County outside of Memphis. The population outside Memphis is still approximately 70% white, while whites make up only less than 32% of Memphis' population. B contrast, African-Americans make up about 63% of Memphis' population but less than 25% of Shelby County outside of Memphis.

Racial Composition

City of Memphis **	1990 Census		2000 Census		2009 Estimate		2014 Projection		Percent Change	
									1990 to 2000	2009 to 2014
White	312,890	47.3%	223,955	34.5%	190,474	31.6%	198,450	34.9%	-28.4%	4.2%
Black	341,237	51.5%	398,999	61.4%	379,671	63.0%	349,069	61.3%	16.9%	-8.1%
American Indian or Alaska Native	1,042	0.2%	1,211	0.2%	132	0.0%	11	0.0%	16.2%	-
Asian or Pacific Islander	5,513	0.8%	9,675	1.5%	10,521	1.7%	8,476	1.5%	75.5%	-
Some Other Race	1,369	0.2%	9,413	1.5%	12,136	2.0%	9,157	1.6%	587.5%	-
Two or More Races			6,755	1.0%	9,501	1.6%	4,191	0.7%		-
Total Other (Not Black or White)	7,924	1.2%	27,054	4.2%	32,290	5.4%	21,835	3.8%	241.4%	32.4%
Hispanic Ethnicity	4,996	0.8%	19,251	3.0%	34,785	5.8%	47,144	8.3%	285.3%	35.5%
Shelby County outside of Memphis	1990 Census		2000 Census		2009 Estimate		2014 Projection		Percent Change	
									1990 to 2000	2009 to 2014
White	142,171	86.5%	200,879	81.2%	209,762	69.9%	234,925	74.3%	41.3%	12.0%
Black	18,844	11.5%	36,825	14.9%	74,627	24.9%	70,958	22.5%	95.4%	-4.9%
American Indian or Alaska Native	426	0.3%	578	0.2%	93	0.0%	2	0.0%	35.7%	-
Asian or Pacific	2,230	1.4%	5,353	2.2%	7,619	2.5%	6,506	2.1%	140.0%	-

Islander										14.6%
Some Other Race	605	0.4%	1,389	0.6%	2,894	1.0%	1,564	0.5%	129.6%	-
Two or More Races	0	0	2,440	1.0%	5,065	1.7%	2,068	0.7%		-
Total Other (Not Black or White)										59.2%
	3,261	2.0%	9,760	3.9%	15,671	5.2%	10,140	3.2%	199.3%	35.3%

Hispanic Ethnicity 2,096 1.3% 4,113 1.7% 9,665 3.2% 14,630 4.6% 96.2% 51.4%

Source:

Demographics Now

2009

*Memphis MSA data use current

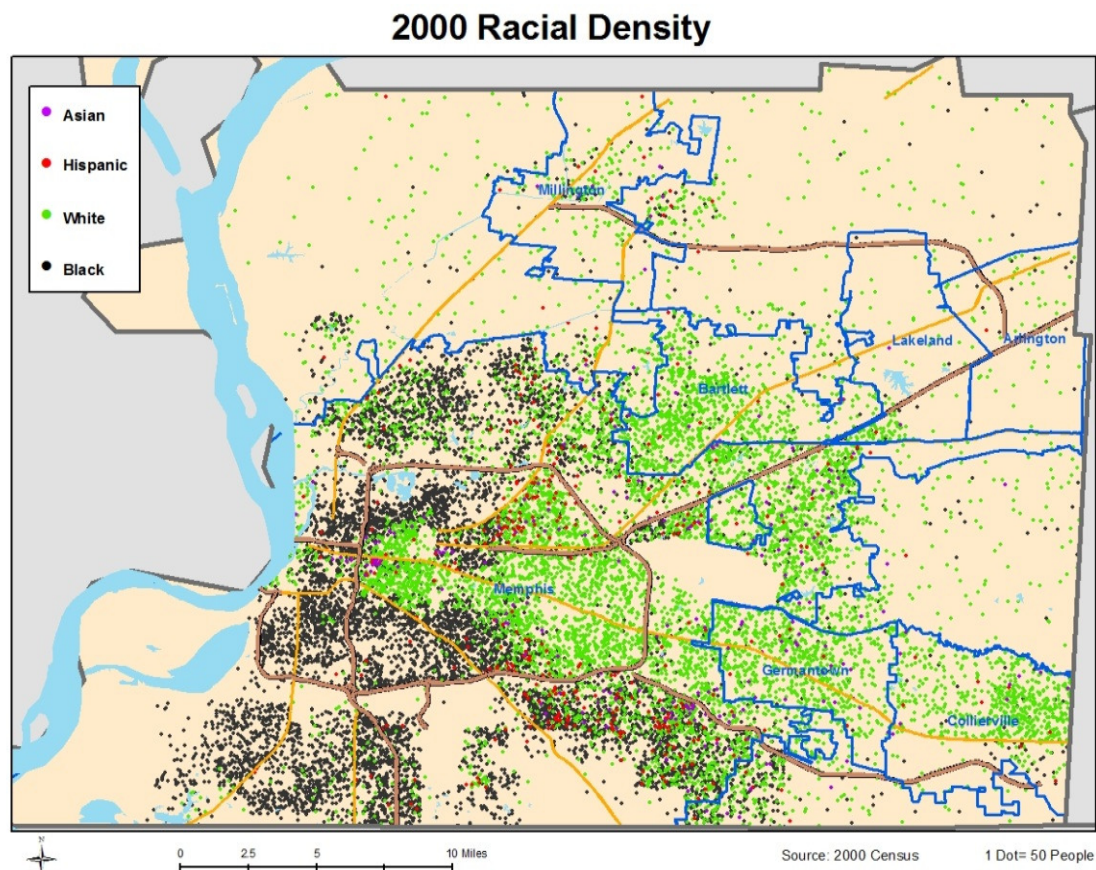
boundary and includes Shelby,

Tipton, Fayette, Desoto, Marshall, Tate, Tunica, and Crittenden

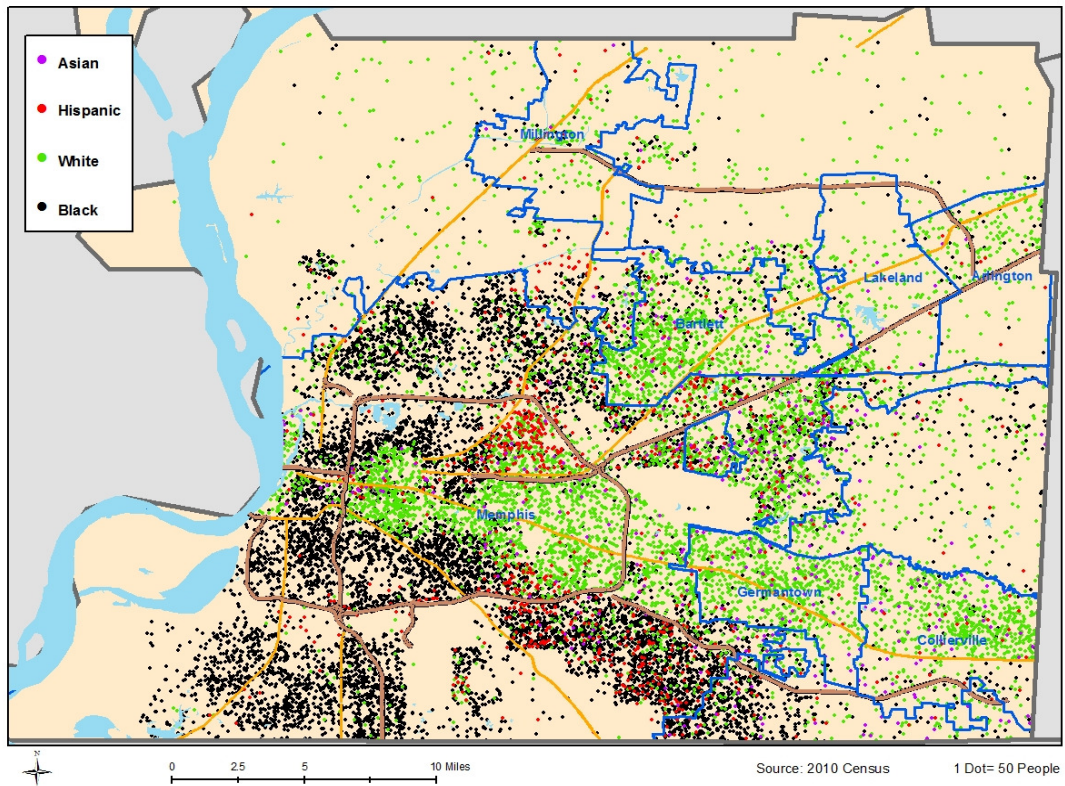
Counties

**All City of Memphis data use current boundary

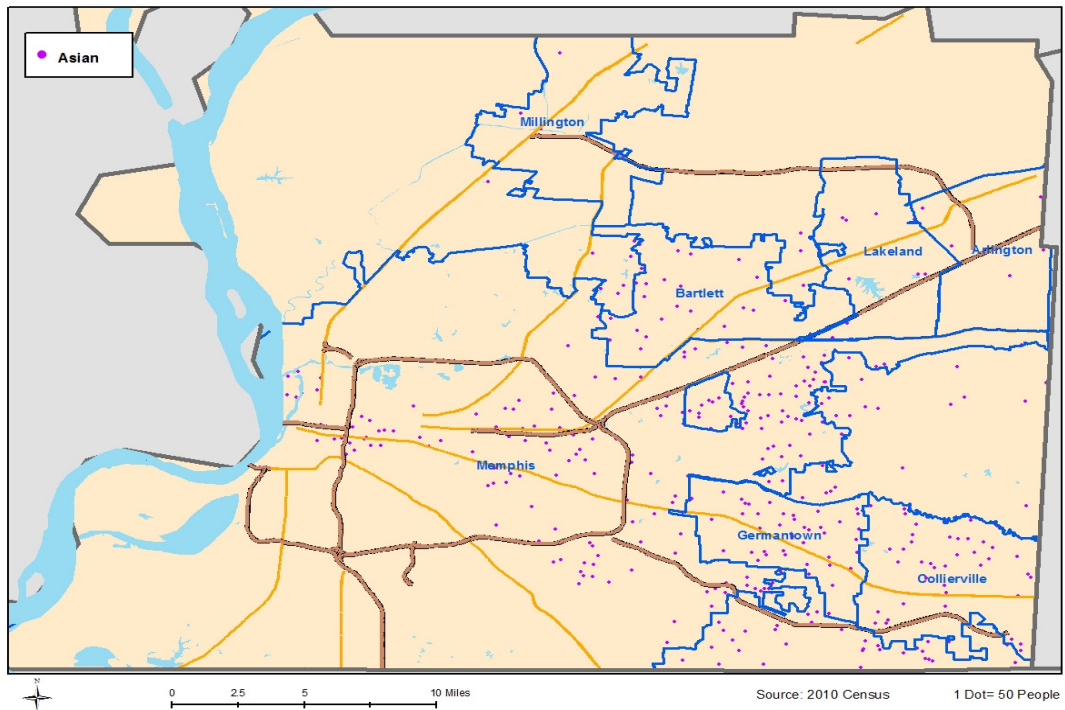
Below are a series of six racial density maps that provide a more complete picture of the racial and ethnic patterns in Shelby County.



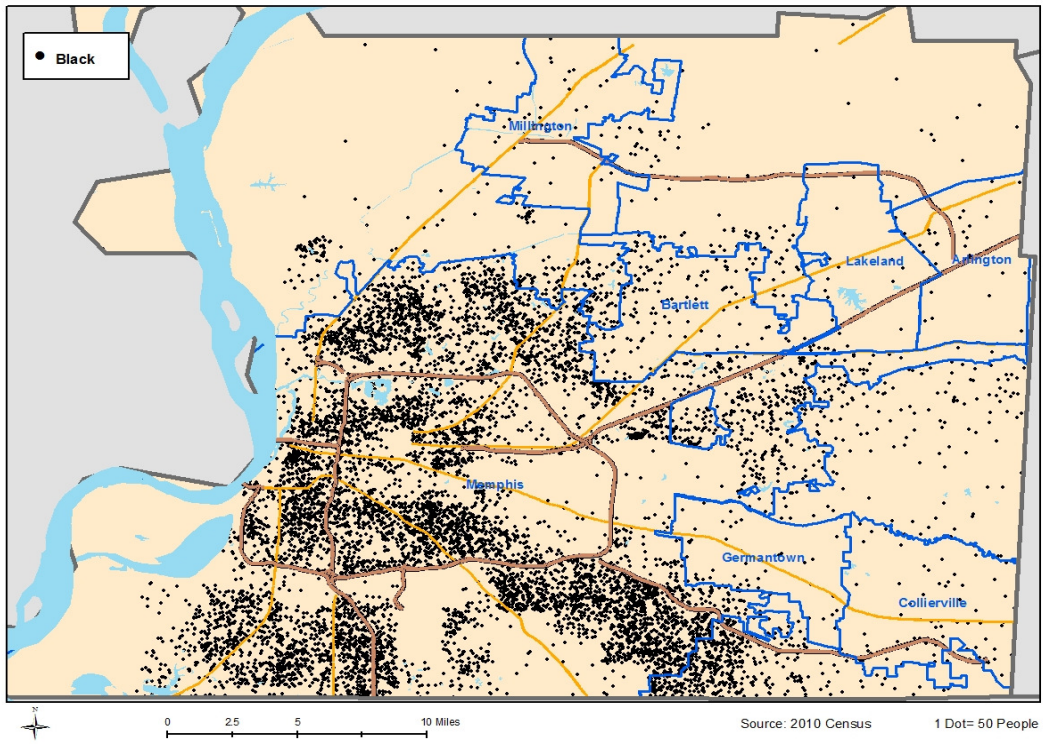
2010 Racial Density



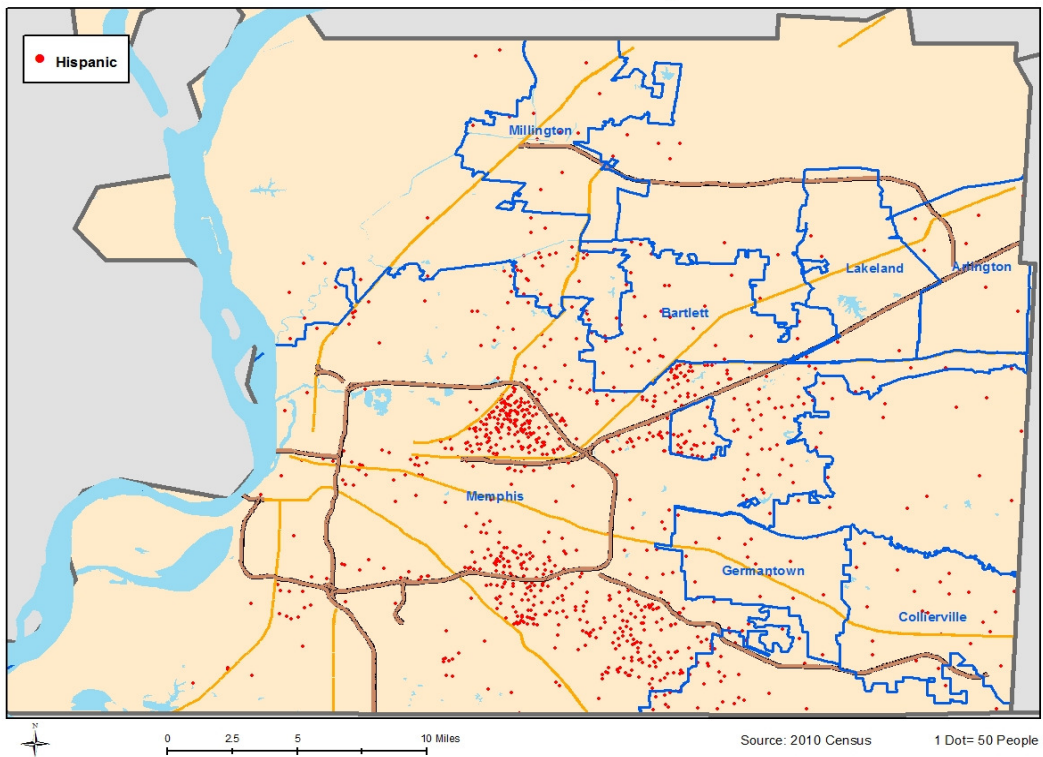
2010 Racial Density: Asian



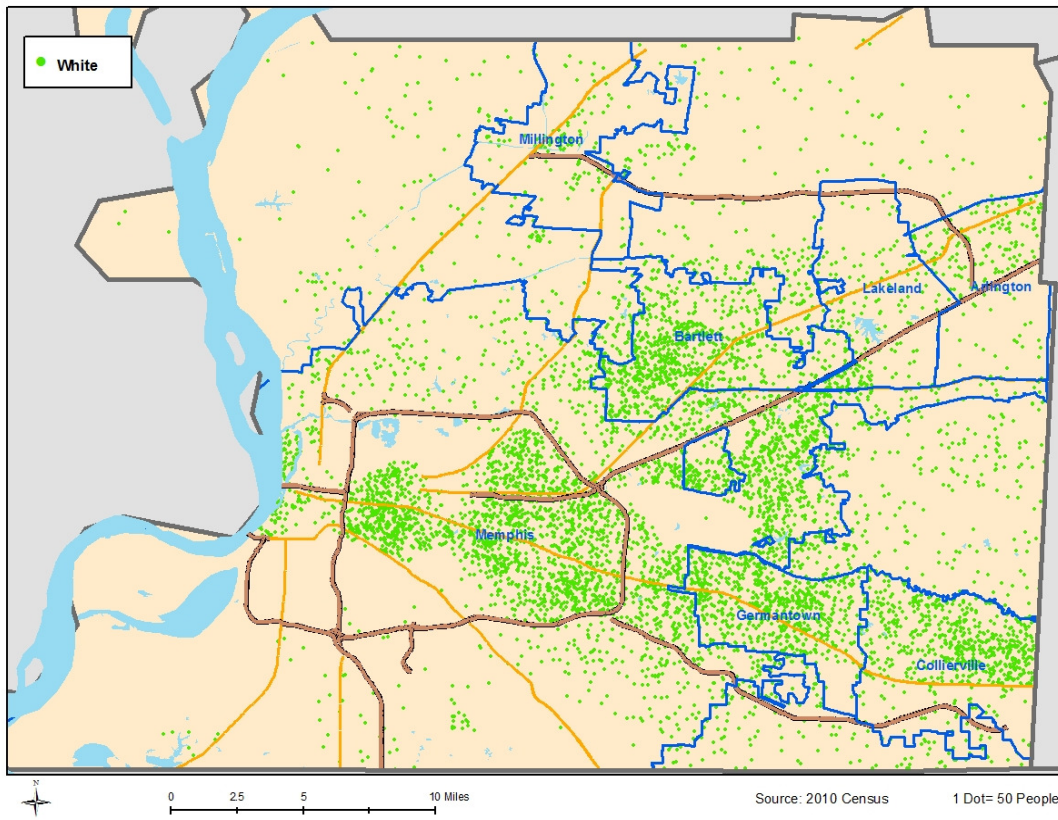
2010 Racial Density: Black



2010 Racial Density: Hispanic



2010 Racial Density: White



The first two maps show racial density of Asians, Blacks, Hispanics, and Whites, in 2000 and in 2010. From these maps there can be seen a pretty significant migration of African-American families from within the city limits of Memphis to southeast Shelby County and below (where there were already large numbers of African- American residents). It also reflects substantial movement north into the areas of Frayser, Raleigh, and the City of Bartlett. There has also been significant increase of African-Americans into the Cordova area. There has been some increase of African- Americans in the municipalities of Lakeland, Arlington, and Millington but very modest change east of downtown Memphis in Midtown, east Memphis, Germantown, and Collierville. There have been comparable increases in Hispanic residents in roughly the same areas.

The chart below shows the racial demographics of the municipalities that make up the consortium. Interestingly, several of the municipalities are substantially less racially diverse than unincorporated Shelby County or the area outside the City of Memphis as a whole.

City	Race	2000	2010
Arlington	White	73.7%	81.1%
	African American	23.0%	13.9%
	Asian	0.6%	1.8%
	Other	2.7%	3.2%
Bartlett	White	92.4%	78.7%
	African American	4.9%	16.1%
	Asian	1.2%	2.5%
	Other	0.8%	2.7%
Collierville	White	89.9%	79.7%
	African American	7.3%	10.9%
	Asian	1.5%	7.0%
	Other	1.3%	2.4%
Lakeland	White	90.7%	83.3%
	Black	5.2%	9.4%
	Asian	1.8%	4.4%
	Other	2.3%	2.9%
Germantown	White	93.0%	89.5%
	African American	2.3%	3.6%
	Asian	3.5%	5.2%
	Other	1.2%	1.7%
Millington	White	70.8%	65.2%
	African American	22.1%	25.6%
	Asian	2.5%	2.5%
	Other	4.6%	6.7%

For example, Germantown was made up of 89.5% white residents according to 2010, down only slightly from the 2000 figure of 93%. African-American residents in Germantown have only increased by 1.3% over the decade from 2.3% to 3.6%. These percentages are obviously an outlier from the demographics of the county as a whole. This is partially, at least, due to the fact that Germantown is “landlocked” and has no room to grow. (Asian population grew only 1.7% and “other” by only 0.5%.)

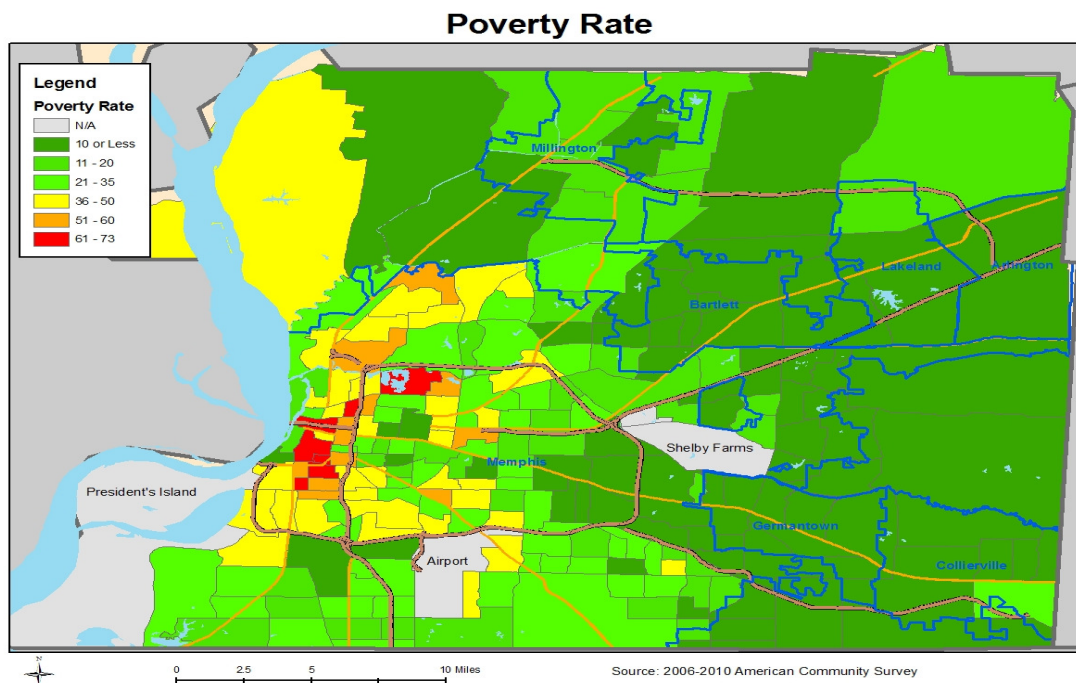
Bartlett has had the biggest shift in racial demographics, having an increase in African-American population from 4.9% to 16.1% over the last decade and a reduction of white population from 92.4% to 78.7%.

One apparent anomaly of the slow advance in racial diversity is Arlington, which, according to census data, has become less diverse over the last decade. There the percentage of white population has increased from 73.7% to 81.1% and the African-American population has decreased from 23.0% to 13.9%.

Income and Poverty Demographics and Trends

Not only is the area of Shelby County outside the City of Memphis considerably whiter than Memphis, it is also considerably wealthier.

The following map graphically illustrates the poverty and income disparities between Memphis and Shelby County excluding Memphis.



Total Population

	1990 Census	2000 Census	2009 Estimate	2014 Projection	1990 to 2000	2009 to 2014
Memphis MSA	1,067,260	1,205,204	1,286,151	1,301,835	12.9%	1.2%
Shelby County	826,327	897,472	902,495	885,377	8.6%	-1.9%
City of Memphis New Boundary	662,047	<uses 2000 boundary	602,435	569,354	-1.8%	-5.5%
City of Memphis Old Boundary	610,337	<uses 1990 boundary			6.5%	
Shelby County Outside of Memphis (new)	164,280	247,464	300,060	316,023	50.6%	5.3%
Memphis MSA outside of Shelby County	240,933	307,732	383,656	416,458	27.7%	8.5%

Source: Demographics Now 2009

Poverty Rates and Income-to-Poverty Ratios

	Memphis MSA	Shelby County	City of Memphis	% of Total
Total Population for whom Poverty Status is Determined	1250143	888374	625203	100.0%
Poverty Rate	17.88%	18.72%	24.08%	
Income to Poverty Ratio				
Under 50%	102860	79235	73115	11.7%
50% to 74%	59933	44330	39920	6.4%
75% to 99%	60753	42781	37498	6.0%
100% to 124%	63182	45290	40102	6.4%
125% to 149%	61059	42929	37048	5.9%
150% to 174%	60654	42735	35272	5.6%
175% to 184%	22539	15898	13685	2.2%
185% to 199%	34547	24693	19210	3.1%
200% to 299%	202812	139072	108641	17.4%
300% to 399%	164616	109125	71001	11.4%
400% to 499%	122849	80363	46157	7.4%
Over 500%	294339	221923	103554	16.6%

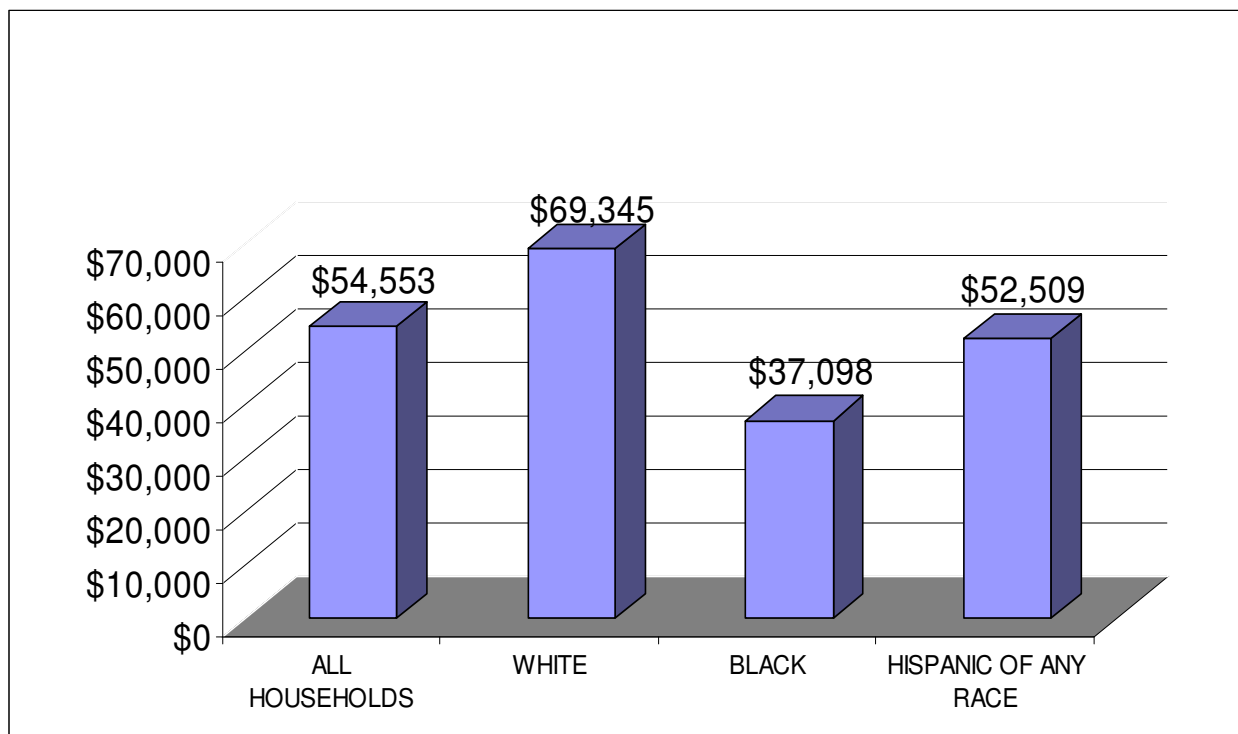
Source: American Community Survey 2008 3 year data, Table B17002. 90% MOE

Median Household Income

	1990	2000	2000 Figures Adjusted to 2009 Dollars	2009	% Real Change 2000-2009	Projected 2014
Memphis MSA	\$26,489	\$39,639	\$51,055	\$52,090	2.0%	\$56,962
Shelby County	\$27,141	\$39,630	\$51,043	\$52,368	2.6%	\$57,396
City of Memphis	\$24,273	\$32,783	\$42,225	\$41,705	-1.2%	\$44,294

Source: Demographics Now 2009, Bureau of Labor Statistics

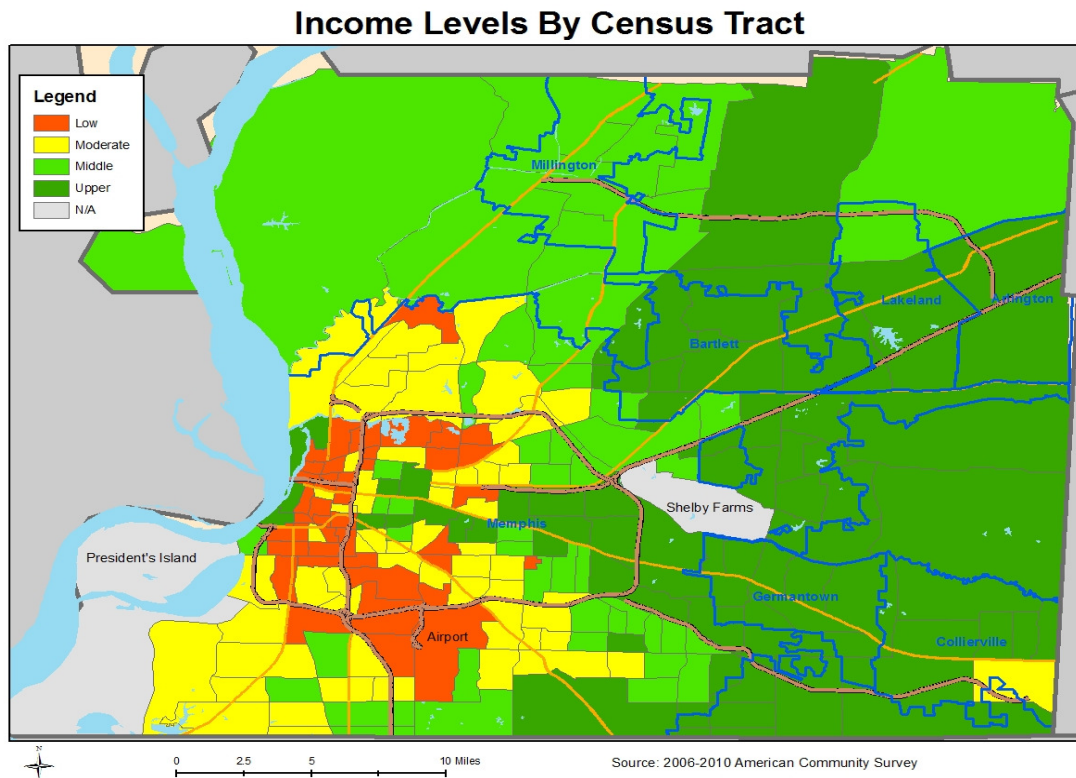
Average household income in Shelby County., 2000



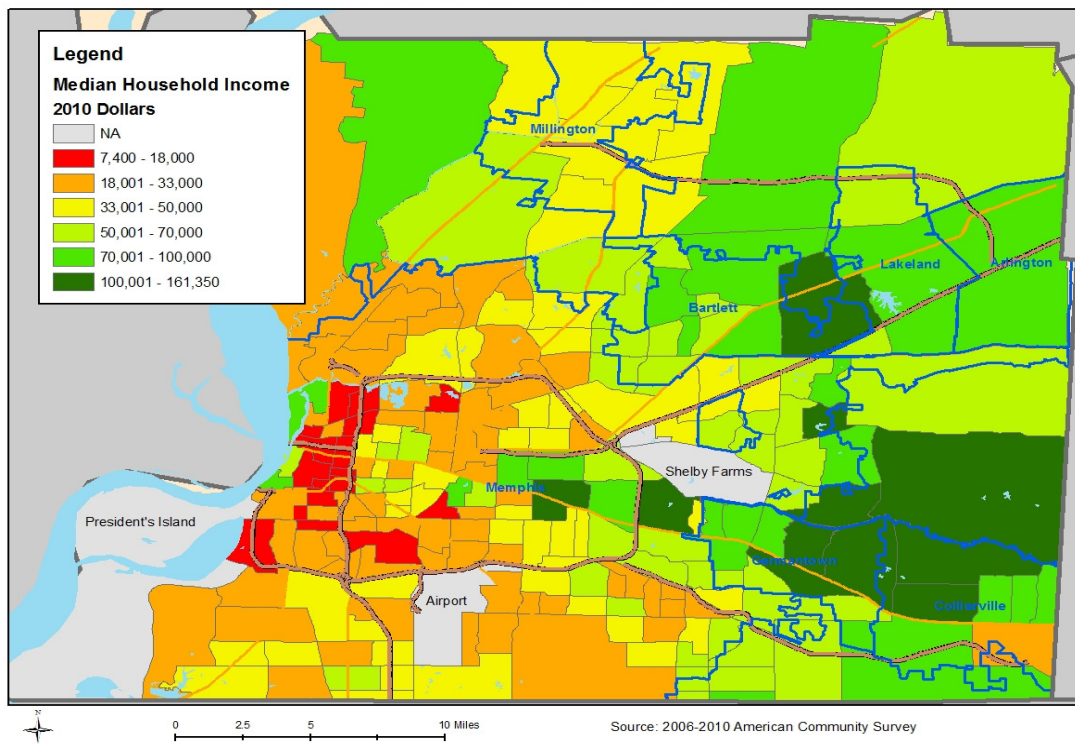
As can be readily seen, only 6% of the people in Shelby County outside the City of Memphis live at or below the poverty level. By contrast, almost 25% of the people within the City of Memphis live at or below the poverty level. At the other end of the spectrum, 45% of the people

of Shelby County outside Memphis have annual incomes that are 500% or more greater than the poverty level, compared to 16.6% within the city. These are sobering figures.

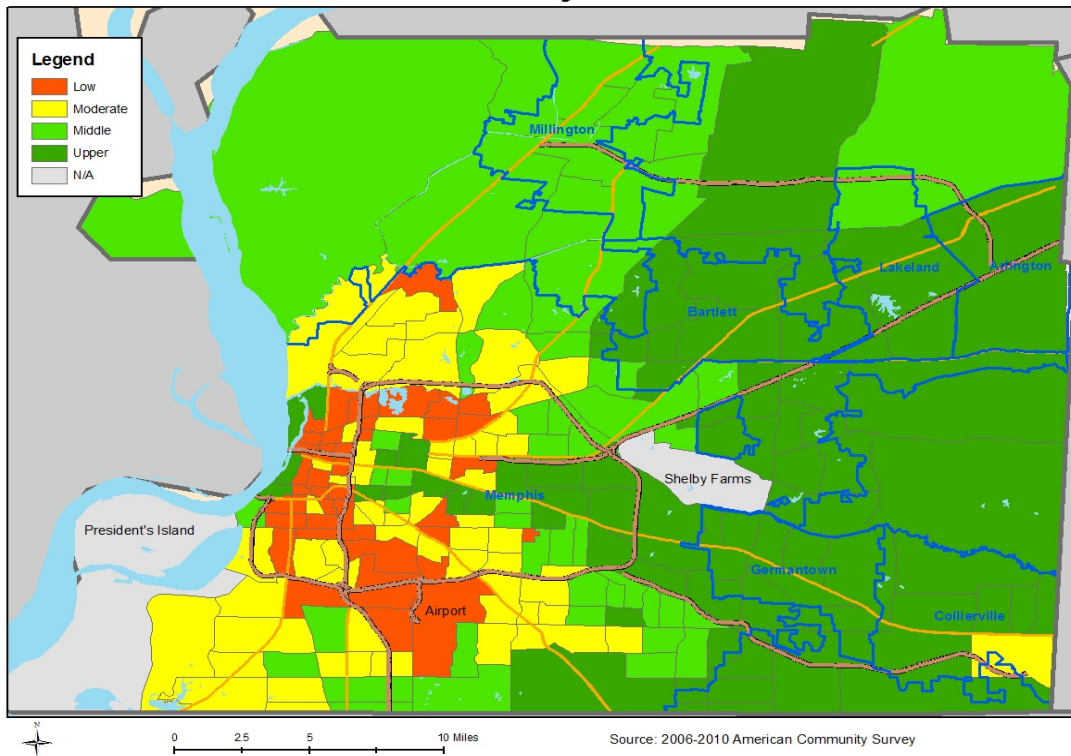
The following four maps show Median Household Incomes, Income Levels, Unemployment Rates, and Poverty Rates by census tract.



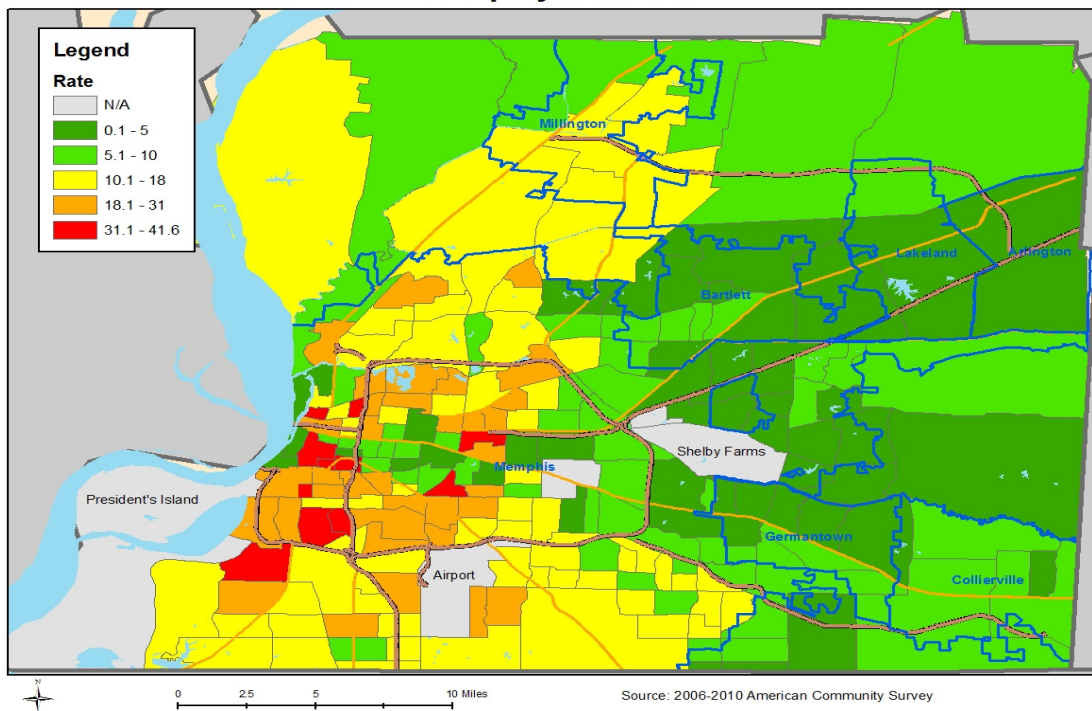
Median Household Income



Income Levels By Census Tract



Unemployment Rate



There is a strong parallel between racial density mapping and the income mapping in that areas with higher density of people of color have lower household incomes and areas that have higher concentrations of whites have higher household incomes. This parallel is most likely primarily attributable to historic (and perhaps current) housing discrimination and race discrimination in other areas, such as employment and education.

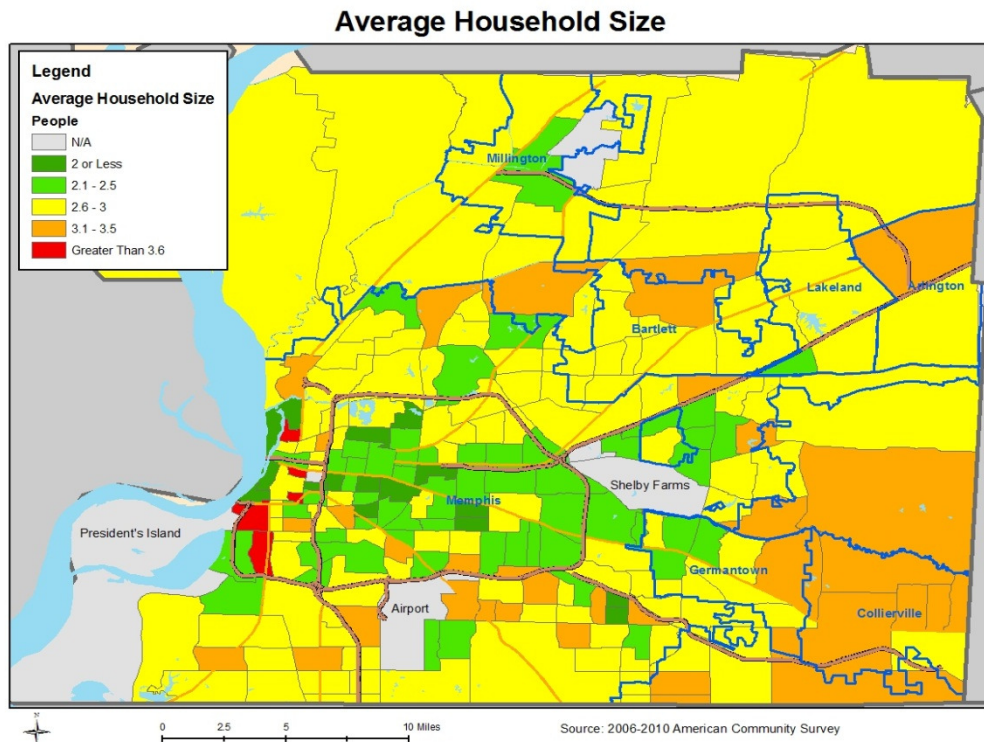
Demographics Regarding Household Composition/ Household Profiles

The following chart shows the numbers and percentages of household size throughout Shelby County.

	2000			2010		
House Hold Size				%		%
1 Person			91,265	27.0	99,495	28.3
2 Person			101,946	30.0	104,238	29.7
3 Person			60,338	17.8	60,506	17.2
4 Person			48,075	14.2	46,130	13.1
5 Person			22,363	6.6	23,240	6.6
6 Person			8,332	2.5	9,711	2.8
7 or More Person Household			6,047	1.8	7,651	2.2
Total			338,366		350,971	
Average Household Size			2.60		2.59	
Average Family Size			3.18		3.20	

The following map indicates that areas in Shelby County with higher percentages of people of color have larger households than those that have higher percentages of white families. It also shows that there are more large households within the city of Memphis than in Shelby County outside of Memphis. The household size map may also reflect the incidence of families

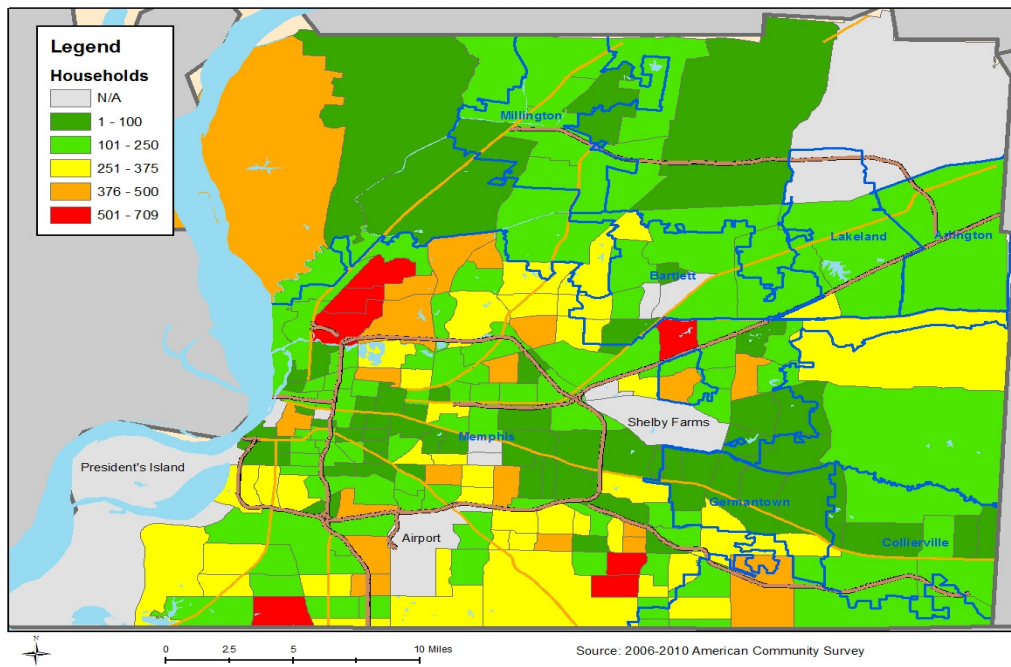
“doubling up” where, for example, a family’s home is foreclosed and they move in with relatives.



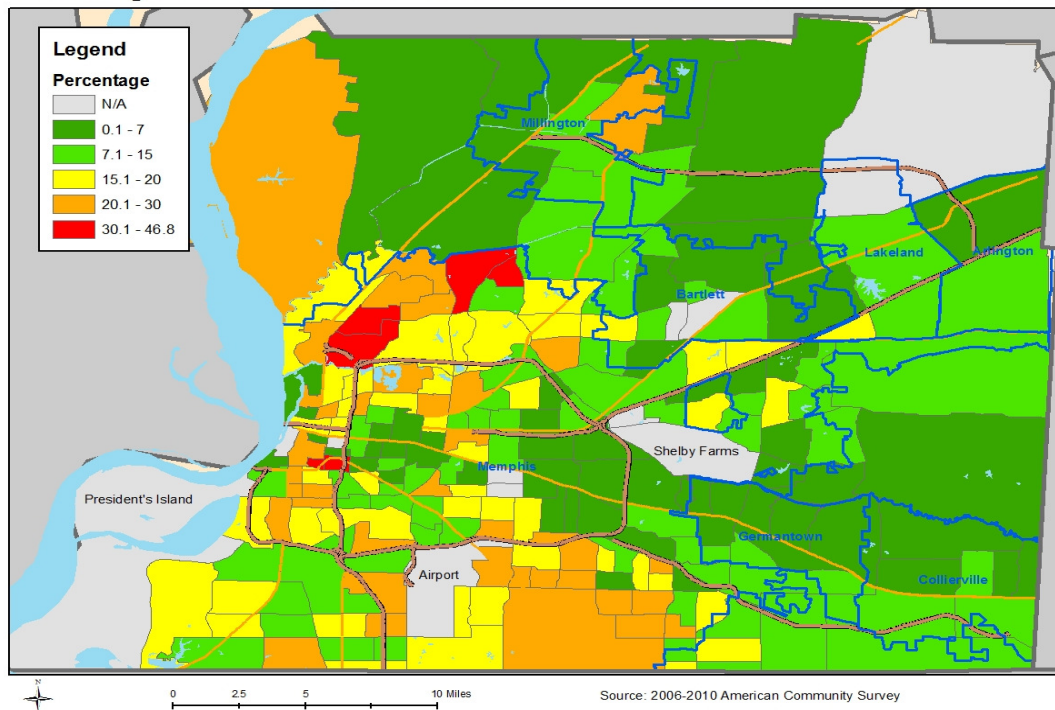
The data below demonstrates that, in Shelby County, African- American and Hispanic families are larger than white families.

2010 census figures show that there are 76,028 female –headed families throughout Shelby County, and 41,339 of those households have children under the age of 18. The maps below shows the concentration of female headed households with children under eighteen years old and the percentages of female headed households with children under eighteen years old by census tract.

Female Head of Households with Children Under 18 Years Old



Percentage Female Head of Households with Children Under 18 Years Old



Employment

One of the most important factors to consider in analyzing housing opportunities in a community is the employment conditions that exist. It is important that people have the ability to find housing that will allow them access to good jobs.

The following two charts show the leading industries in the community and the twenty leading employers. By far, the single largest employer in the region is Fed Ex Corporation, which employs approximately 30,000 people. It is interesting to note that an analysis of leading employers shows that approximately 41,000 are employed by federal, state or local governments. Approximately 25,000 people are employed by local school systems, and approximately 22,250 are employed by local hospitals.

Consistent with the analysis of the largest employers, 64,571 people are employed in health care and social assistance; 54,150 are employed in transportation and warehousing; 48,687 are employed in retail trade; 45,694 are employed in administrative services and support; and 40,455 are employed in public accommodations and food services.

Industry code description	Paid employees for paid period including March 12 (number)	First-quarter payroll (\$1,000)	Annual payroll (\$1,000)	Total establishments
Total for all sectors	455340	4848762	19103772	20836
Forestry, fishing, hunting, and Agriculture Support	C	D	D	10
Mining, quarrying, and oil and gas extraction	45	347	1368	8
Utilities	A	D	D	3
Construction	20250	203405	893477	1340
Manufacturing	30375	399147	1531195	680
Wholesale trade	33711	468506	1859936	1520
Retail trade	48687	284465	1151352	3156
Transportation and warehousing	54150	470742	1940530	1013
Information	6911	84044	318039	370
Finance and insurance	20007	477402	1847047	1710
Real estate and rental and leasing	7550	72565	286954	972
Professional, scientific, and technical	17489	239910	936620	1882

services				
Management of companies and enterprises	28634	801054	2734082	521
Administrative and Support and Waste Mang and Remediation Srvs	45694	343126	1331276	1251
Educational services	8840	62512	266763	226
Health care and social assistance	64571	627987	2745964	2240
Arts, entertainment, and recreation	5502	49751	181386	200
Accommodation and food services	40455	130094	530848	1689
Other services (except public administration)	22219	132058	539346	2023
Industries not classified	28	100	326	22

20 Largest Area Employees

	Company	Employees
1	FedEx Corp.	30,000
2	Memphis City Schools	15,991
3	United States Government	15,500
4	Tennessee State Government	9,000
5	Methodist Le Bonheur Healthcare	8,700
6	City of Memphis	7,231
7	Baptist Memorial Health Care Corp.	6,845
8	Shelby County Government	6,336
9	Wal-Mart Stores Inc.	6,000
10	Shelby County Schools	5,200
11	Harrah's Entertainment Inc. dba Harrah's Tunica	5,000
12	Naval Support Activity Mid-South	4,076
13	First Horizon National Corp.	4,000
14	DeSoto County School District	3,867
15	The Kroger Co.	3,500
16	University of Tenn. Health Science Center	3,500
17	St. Jude Children's Research Hospital	3,200
18	Memphis Light, Gas & Water	2,836
19	Technicolor	2,800
20	Internal Revenue Service	2,700

Estimated Persons 5+ with a Disability

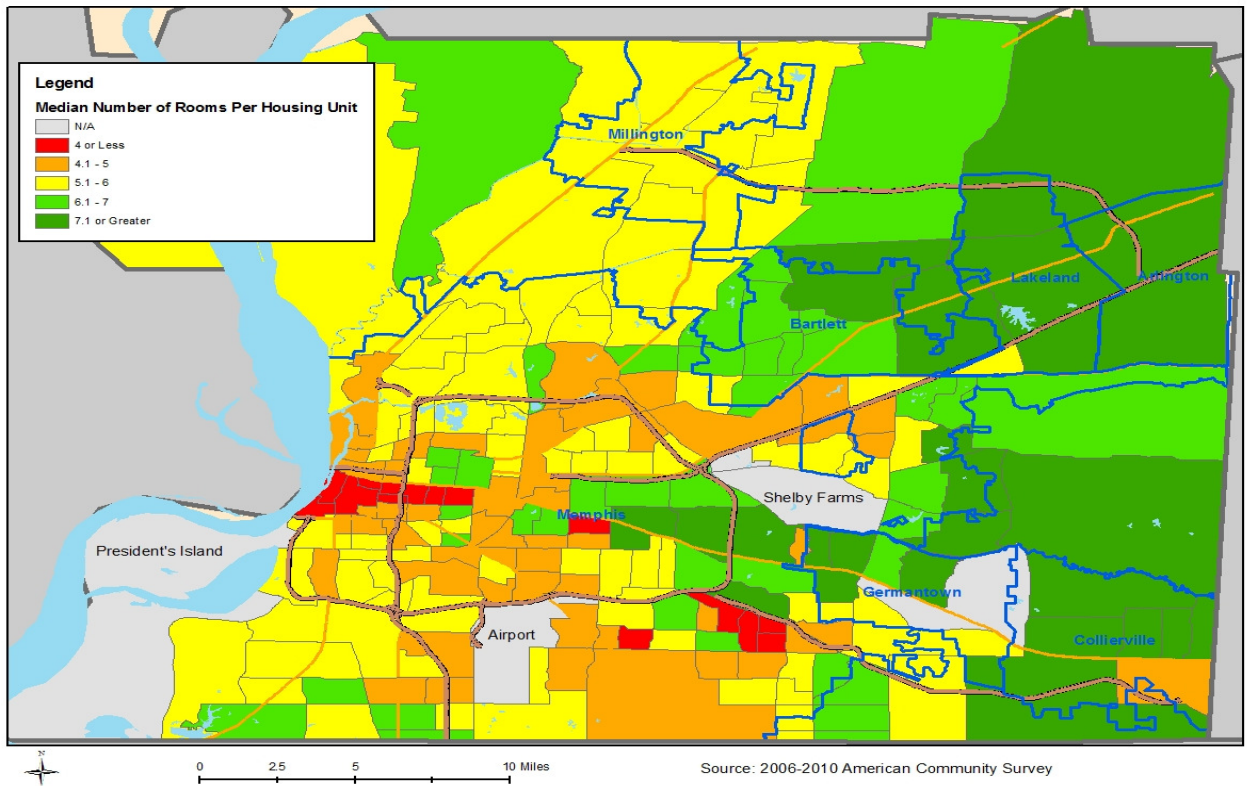
	Shelby	City of Memphis	Shelby County outside of
Population 5 years and older .	824716	585176	239,540
Percentage of Population 5 years and older		71.0%	29.0%
Population 5 years and older with a disability	198,779	157583	41,196
Percentage of Persons with a disability		79.3%	20.7%
Population 5 to 15 years	150929	103259	47,670
Percentage of Population 5 to 15 years		68.4%	31.6%
Population 5 to 15 years with a disability	11300	8400	2,900
Percentage of Persons with a disability		74.3%	25.7%
Population 16 to 64 years	587383	418689	168,694
Percentage of Population 16 to 64 years		71.3%	28.7%
Population 16 to 64 years with a disability	79358	64252	15,106
Percentage of Persons with a disability		81.0%	19.0%
Population 65 years and over	86404	63228	23,176
Percentage of Population 65 years and over		73.2%	26.8%
Population 65 years and over with a disability	38137	29255	8,882
Percentage of Persons with a disability		76.7%	23.3%
*All City of Memphis data use current boundary Source: American Community Survey 2005-2007 3 year estimate, Table B18002.			

Analysis of existing housing stock

It is important to understand how well the existing housing stock meets the current needs of the people of Shelby County. This section analyzes the housing that currently exists.

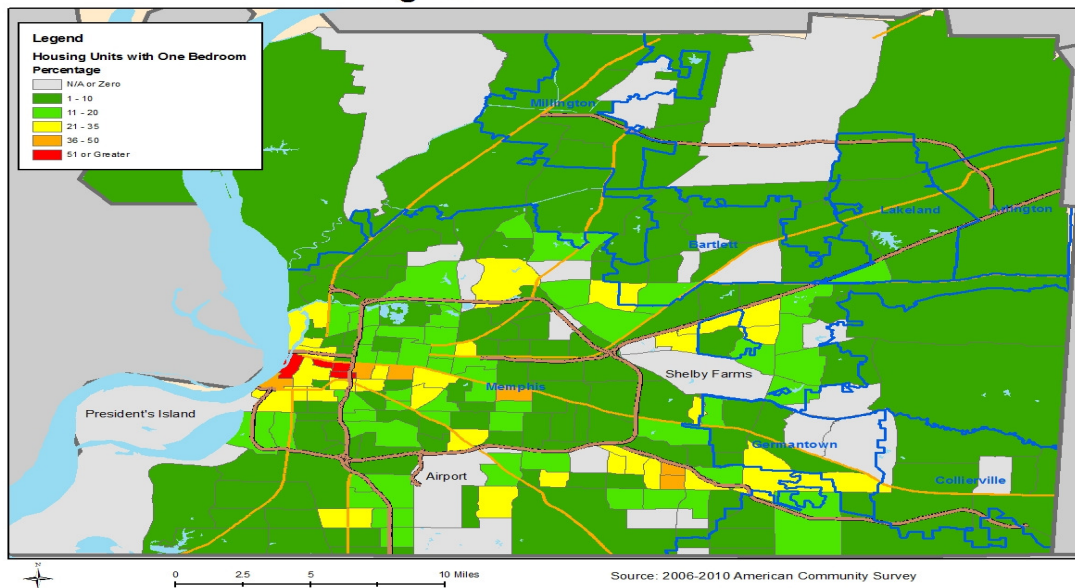
The map below shows the median number of rooms per housing unit by census tract throughout Shelby County.

Median Number of Rooms Per Housing Unit



The next map shows the percentage of housing units with only one-bedroom throughout the county, by census tract.

Housing Units With One Bedroom

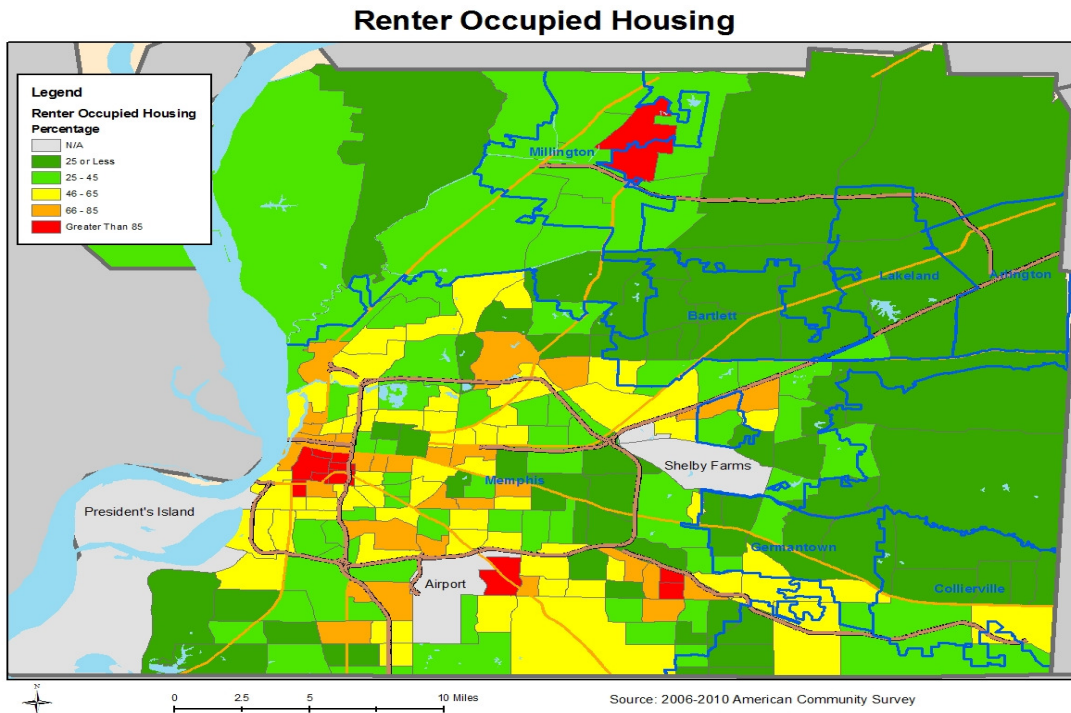


The next chart shows the breakdown of owner and renter occupied housing, broken down by the number of rooms in the housing unit, based upon 2000 census data, throughout Shelby County. It is apparent that there is a very limited amount of rental housing to accommodate large families.

2000

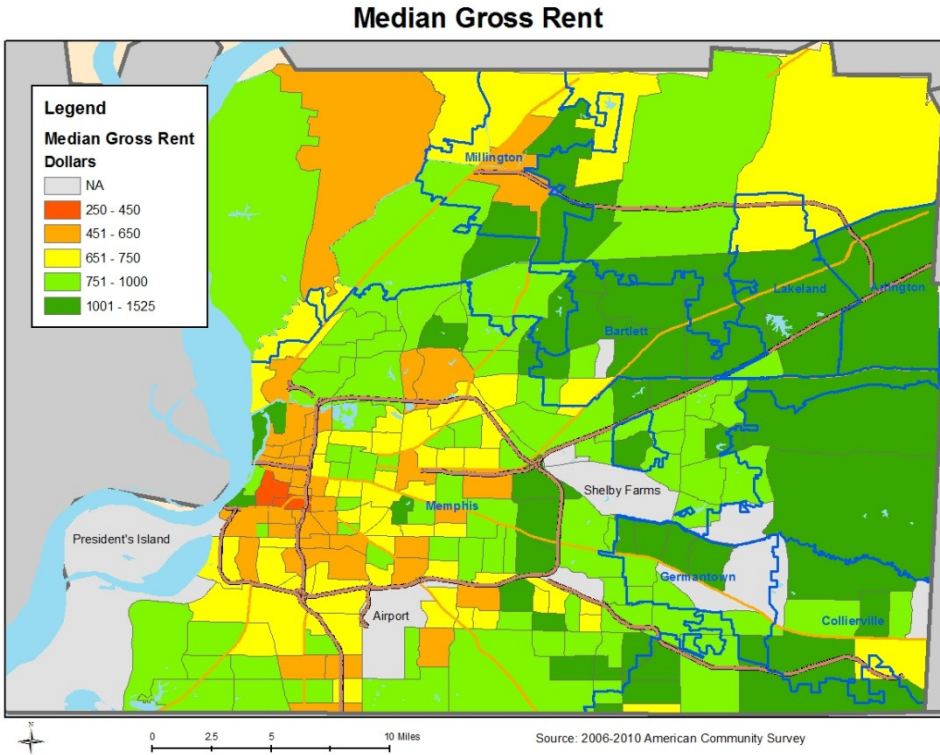
Owner Occupied	231,444
1 Room	147
2 Room	1,057
3 Rooms	4,837
4 Rooms	10,479
5 Rooms	40,674
6 Rooms	56,184
7 Rooms	42,977
8 Rooms	28,245
9 or more Rooms	28,574
Renter Occupied	124,922
1 Room	3,974
2 Room	11,697
3 Rooms	23,823
4 Rooms	39,713
5 Rooms	25,575
6 Rooms	12,759
7 Rooms	4,564
8 Rooms	1,765
9 or more Rooms	1,052

The following map shows the percentage of renter occupied housing, by census tract, throughout Shelby County. This map demonstrates that, with small exceptions¹, there is far less rental housing in the areas making up the consortium than within the City of Memphis.



The map below shows median gross rent, by census tract, throughout Shelby County. This is very critical information going to where “affordable housing” exists in Shelby County and whether current Fair Market Rents for Housing Choice Vouchers permit reasonable housing choice for recipients.

¹ One area in Millington has a rental percentage greater than 85%. This presumably attributable to the Millington Naval Base and the transience of the soldiers stationed there.

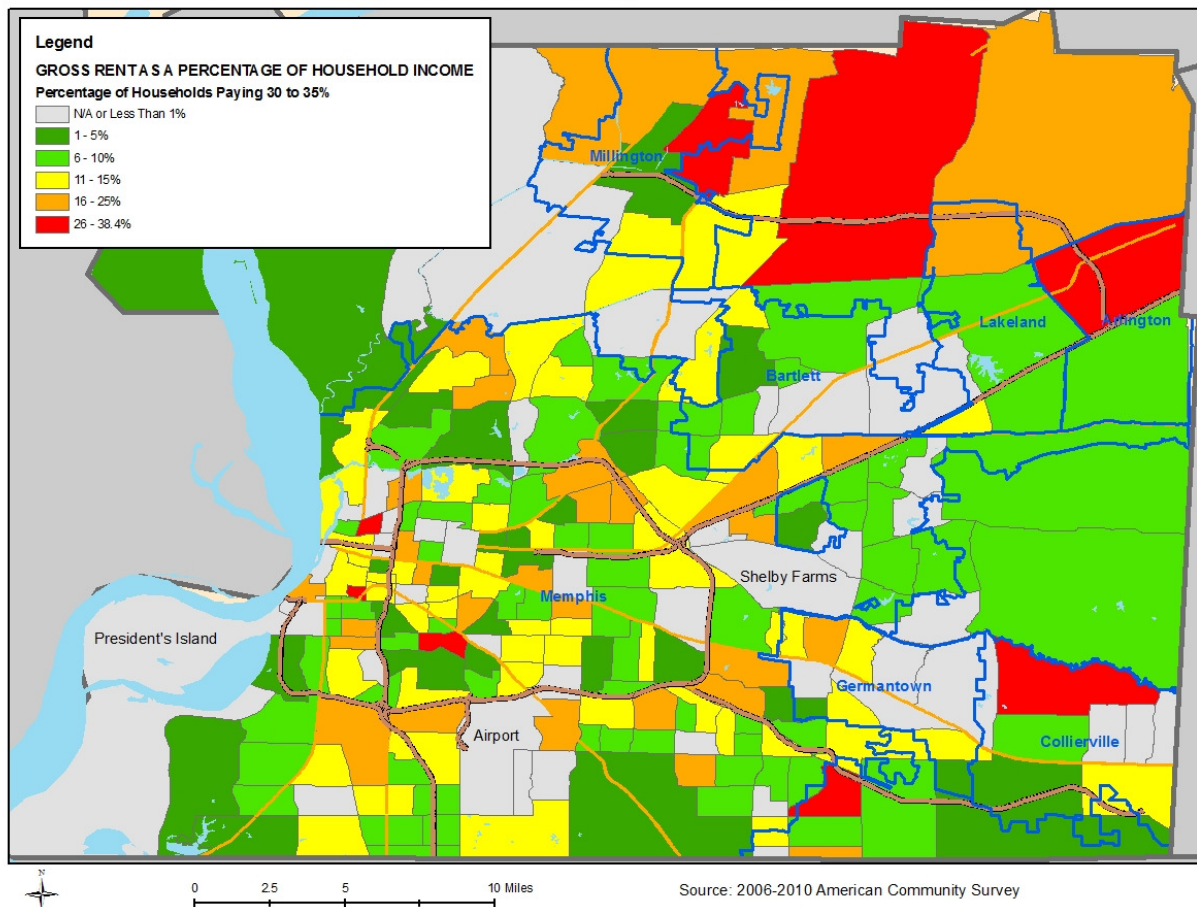


As can be seen, many of the census tracts in the consortium area have median rents of between \$1001 and \$1525, which would clearly be unaffordable to a large percentage of Shelby County residents and would likely exceed the permissible rental amounts under established Fair Market Rents, even for those fortunate enough to have Housing Choice Vouchers².

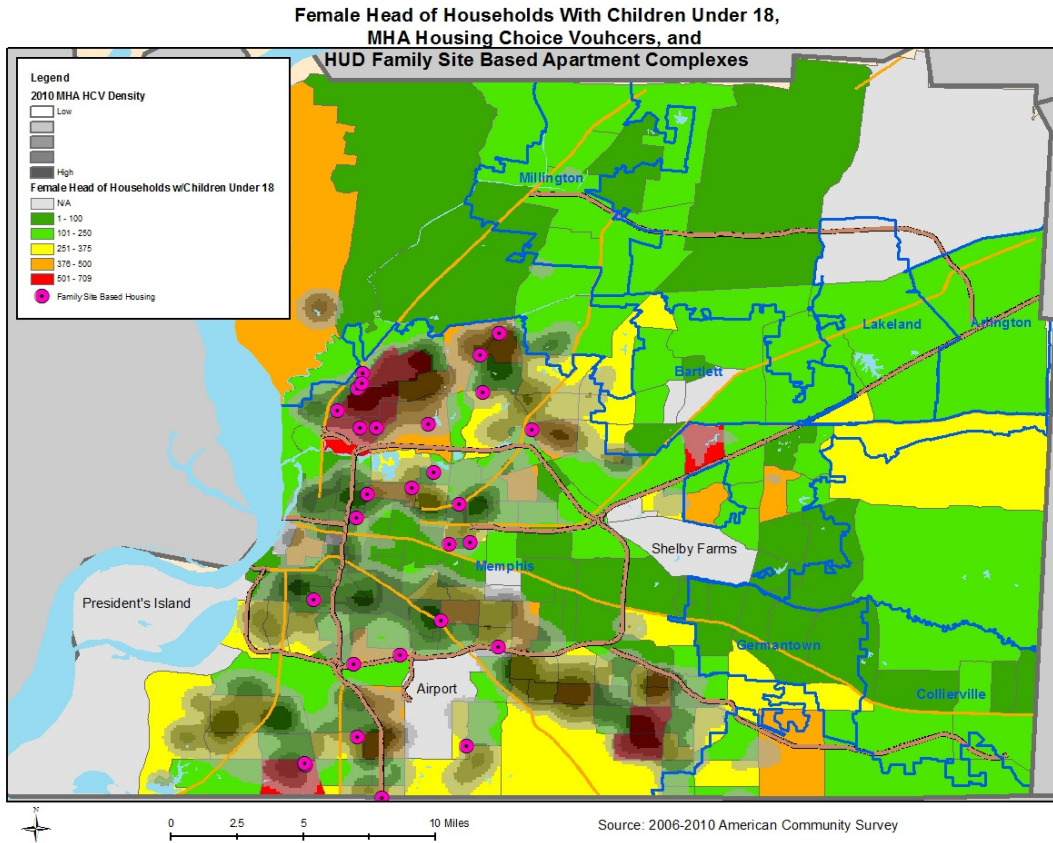
The following map shows the percentages of families paying more than 35% of their income for rent throughout Shelby County by census tract. This is critical information because most authorities agree that households spending a higher percentage are at risk for financial problems.

² Because of limited numbers of vouchers, only a small percentage of those who are financially qualified to receive a rent subsidy are able to get a voucher.

Gross Rent As A Percentage of Household Income

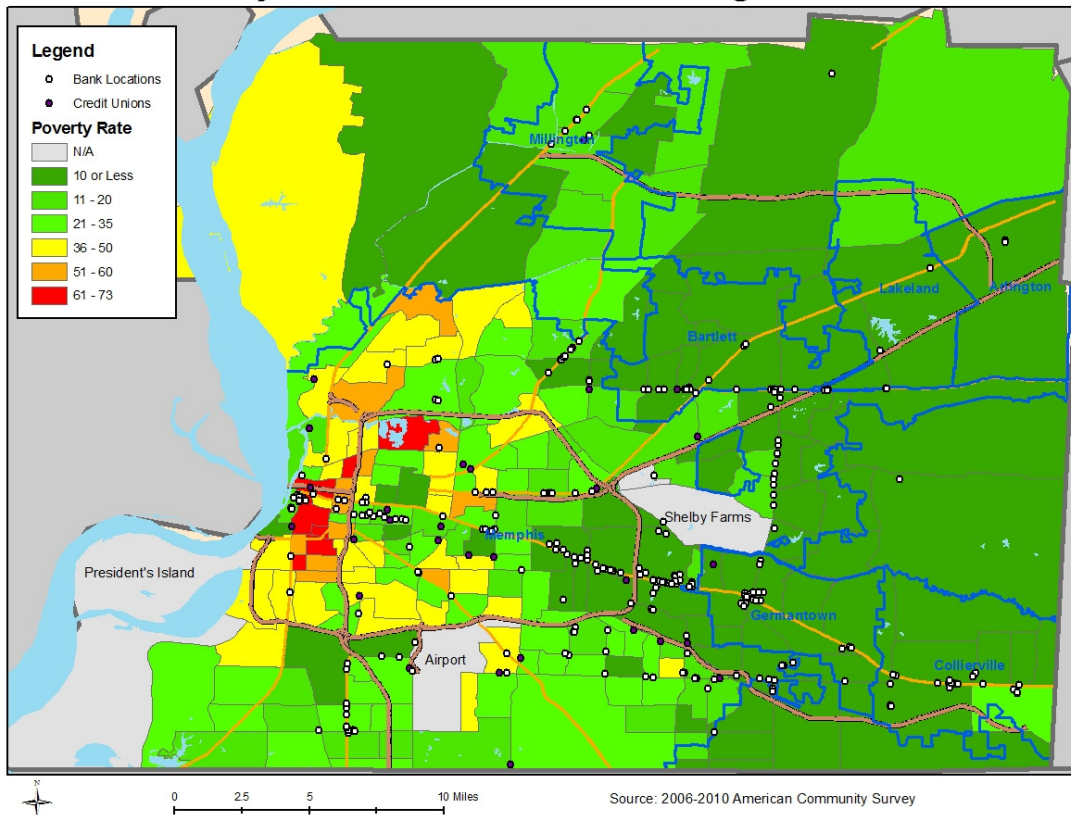


The map below shows the juxtaposition of density of Housing Choice Vouchers residents, HUD site-based subsidized housing complexes, and female headed households with children under 18 years old. This map shows heavy concentrations of families receiving rent subsidies into “urban deserts” of primarily low income people and people of color. Because of limited opportunities for employment, quality schools, health care, quality groceries, traditional banks, and other elements of quality life, these areas are often called “low opportunity” areas.

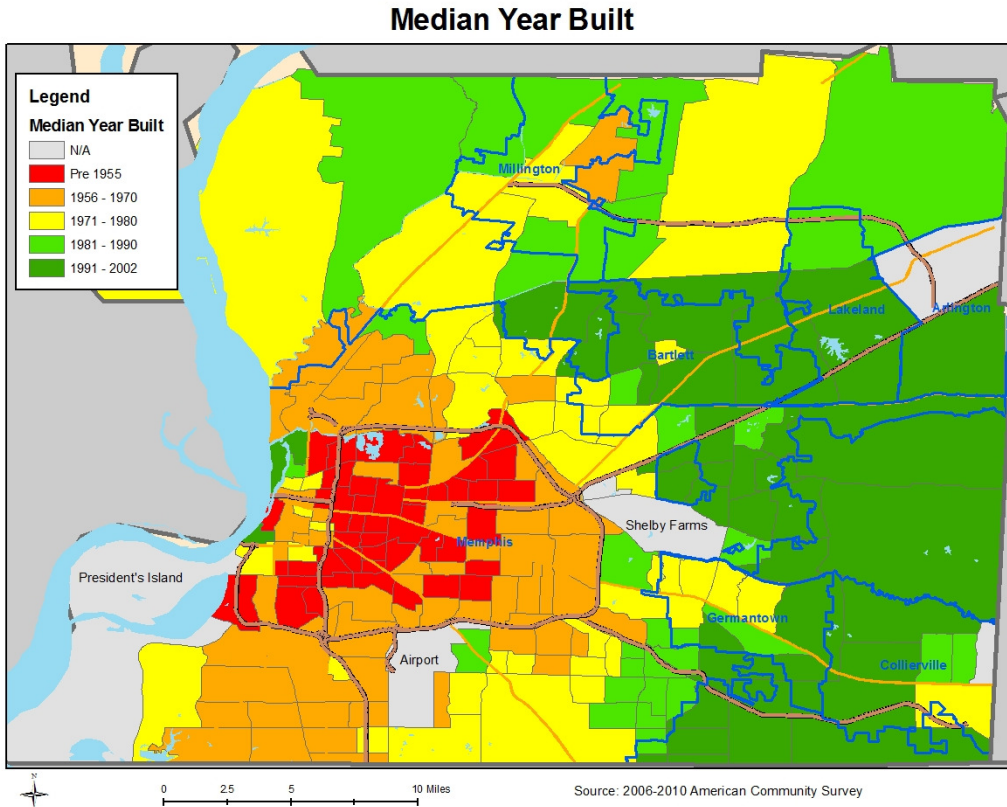


As one example, the following map shows distribution of traditional full service banks.

Poverty Rate and Traditional Lending Institutions



The following map shows all apartment complexes in Shelby County by the years in which they were built. The years that multi-family rental complexes were built is very important because the Fair Housing Amendments Act, which requires accessibility in multi-family housing applies to complexes that were first occupied after March of 1988.

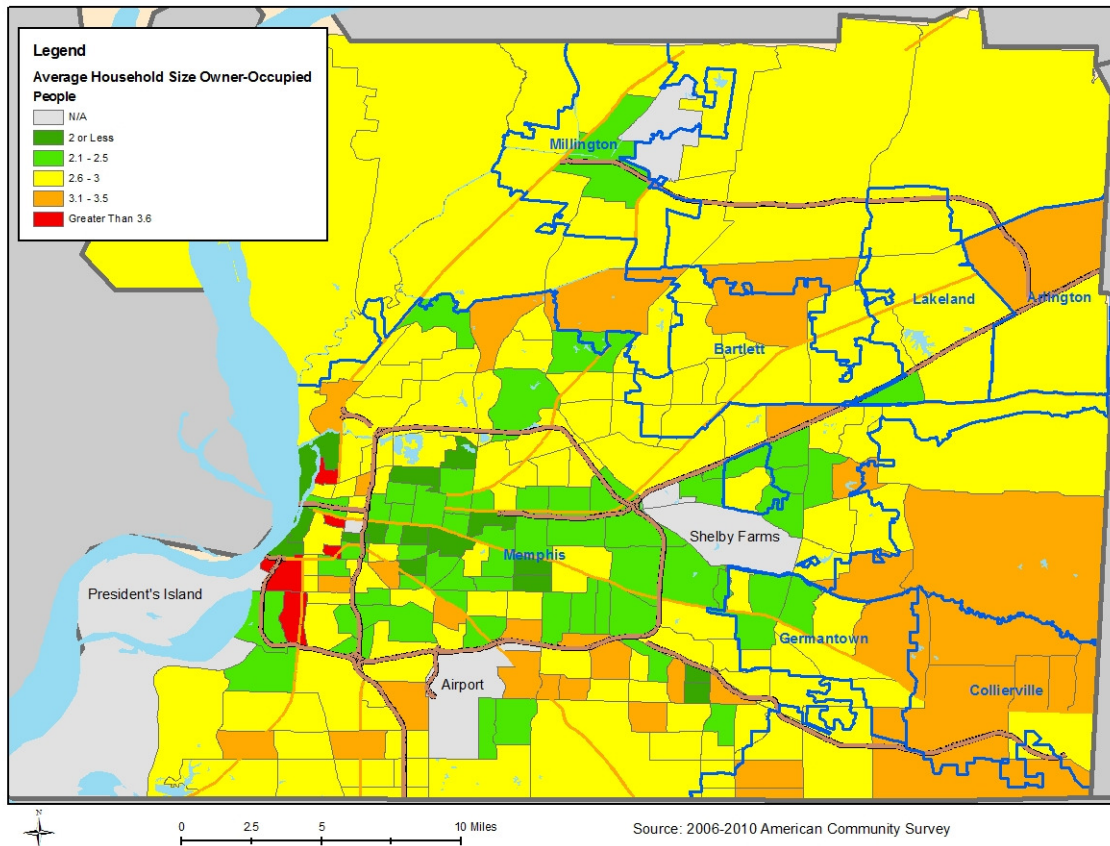


This map demonstrates that the majority of multi-family housing developments in Shelby County were built and occupied before the effective date of the Fair Housing Amendments Act.

As can be seen from the chart below, the home ownership percentage for residents of the City of Memphis had fallen to 43% in 2009 from 51.8% in 2000 according to information from Demographics Now. The rate of homeownership in Shelby County excluding the City of Memphis had fallen from 79.6% in 2000 to 66.3% in 2009; however, the incidence of homeownership in the consortium area was still 23.3% higher than in Memphis.

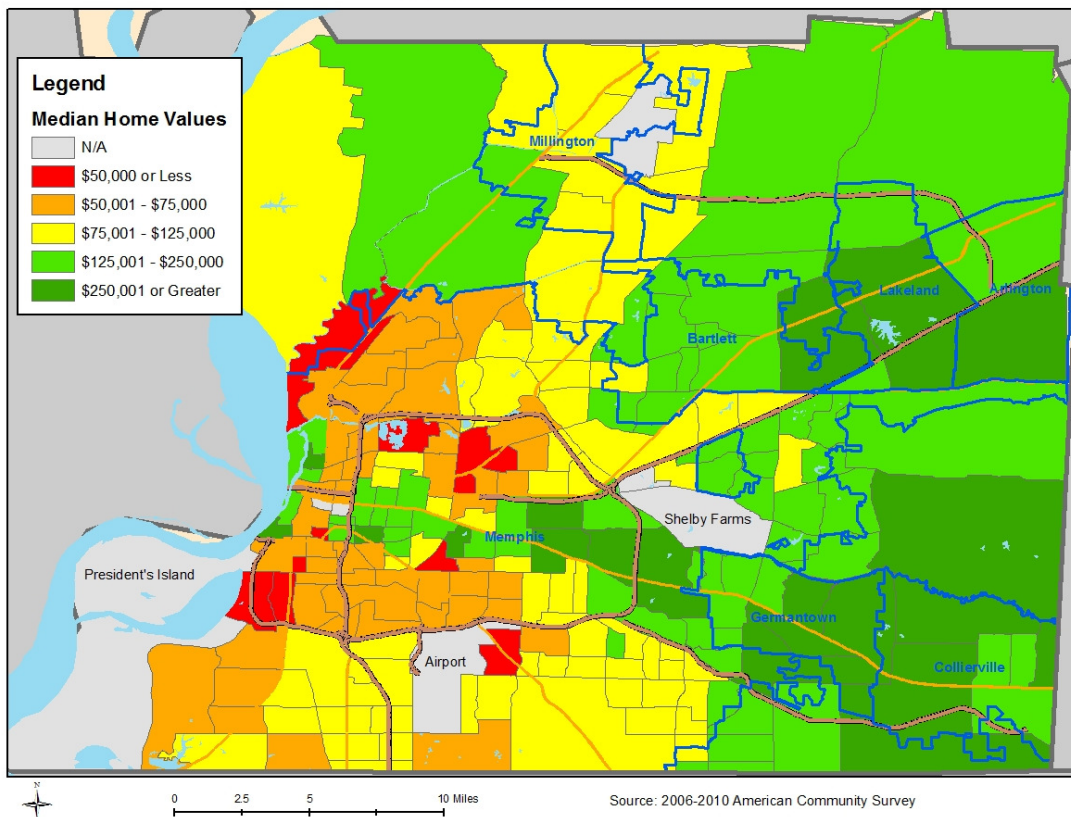
The following map shows the percentage of owner-occupied housing, by census tract, throughout Shelby County.

Average Household Size



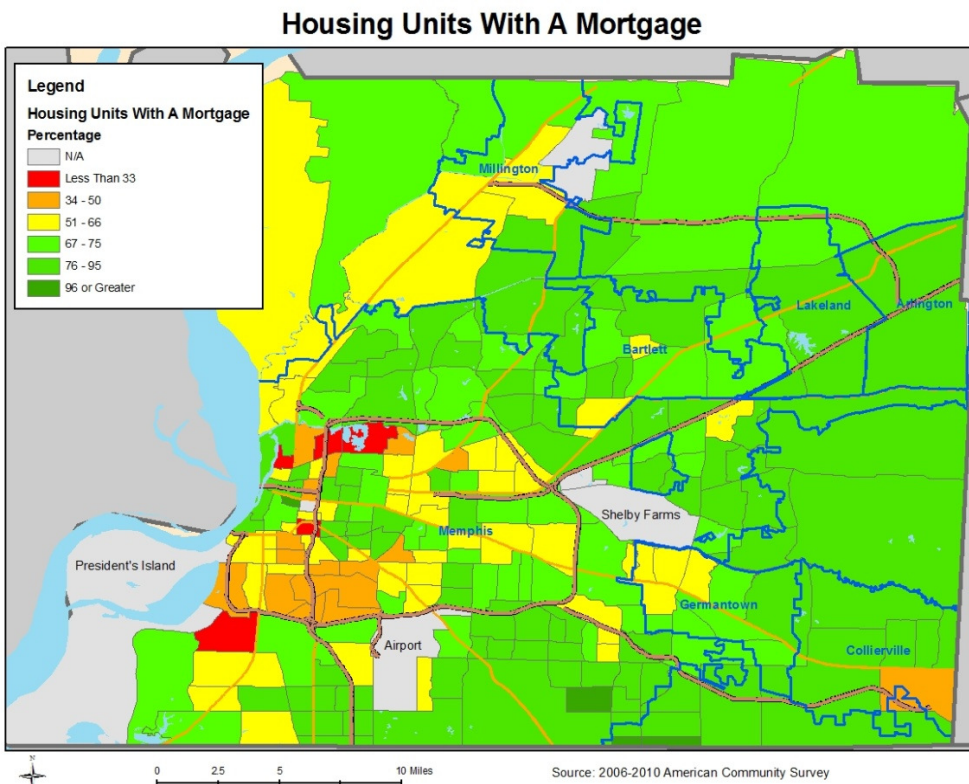
The next map shows median home values throughout Shelby County by census tract. Home values have fallen throughout the county, causing many homeowners with a mortgage to be “upside down” or “underwater”, meaning that they owe more on their mortgage than the value of their home. On average, values have fallen by approximately 30% over the last few years; however, values have fallen far more in some areas than others.

Median Home Values



The following map shows the percentages of homes less than \$50,000 in value throughout Shelby County by census tract. There are substantial areas in which more than 50% of the homes are worth less than \$50,000. This is a good indication of blighting from excessive foreclosure and vacancies.

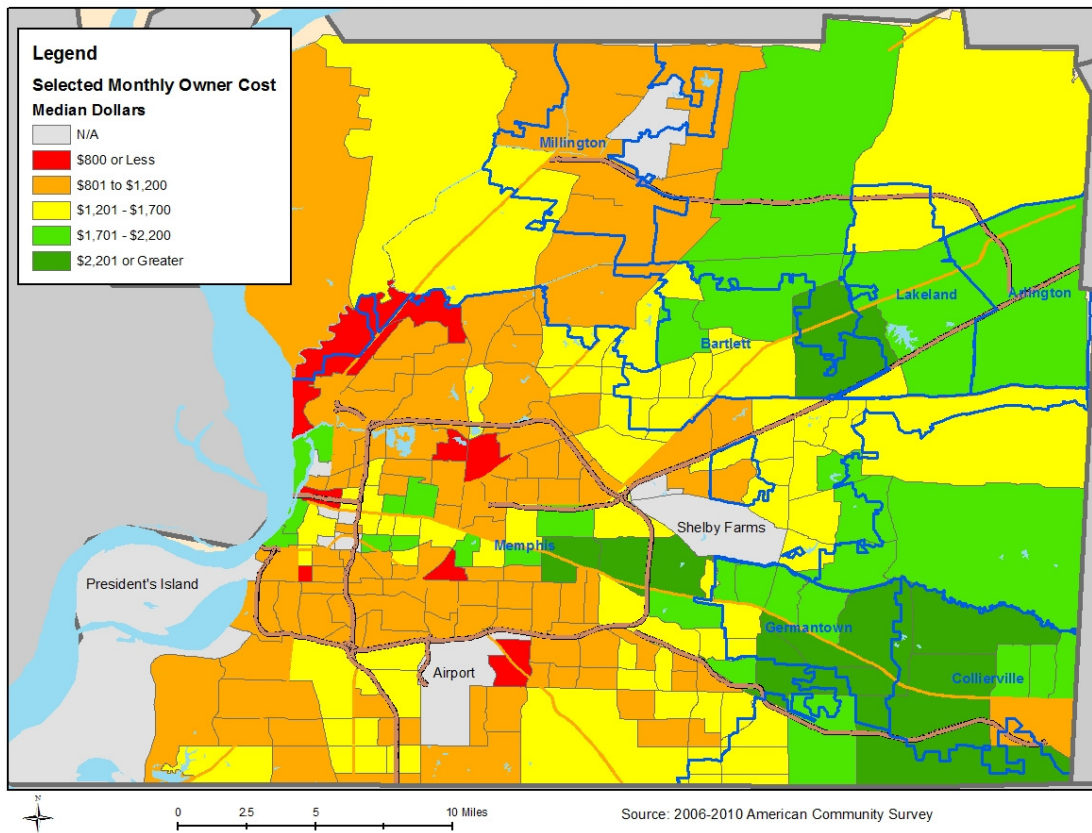
The following map shows the percentage of homes with a mortgage by census tract.



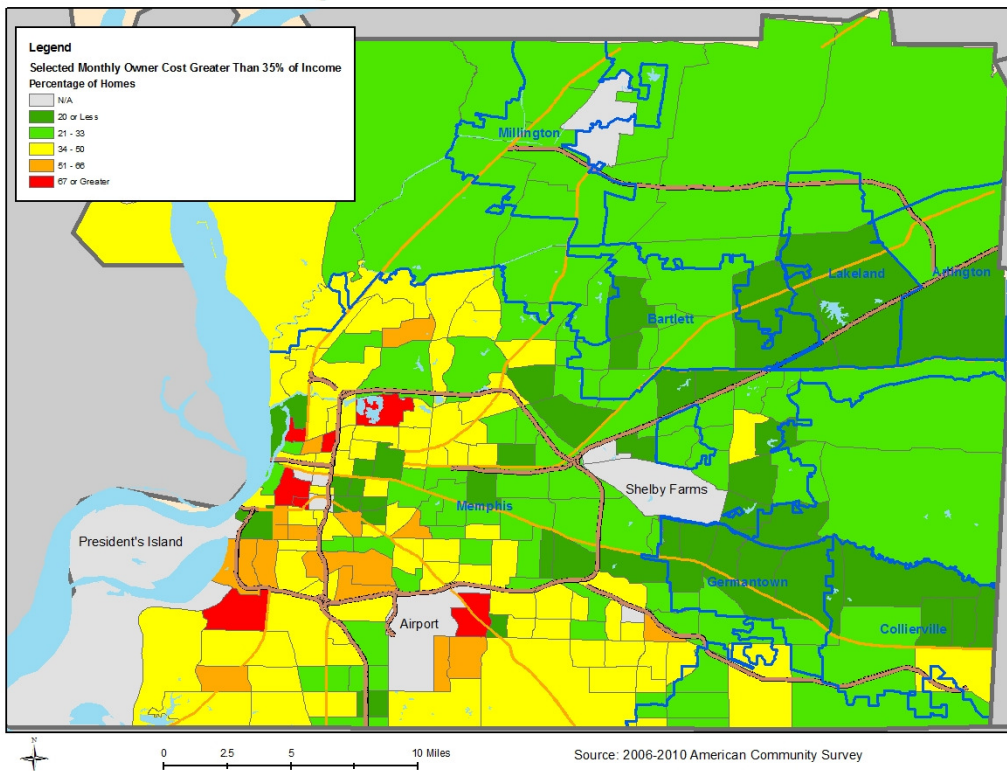
The next map shows median monthly owner costs, by census tract, throughout Shelby County.

The one following shows by census tract, the percentage of households paying more than 35% of their income for housing costs. There are large areas in which more than 50% of the households are paying more than 35% of their income for mortgage, taxes, and insurance. This may reflect patterns of risky lending.

Selected Monthly Owner Costs

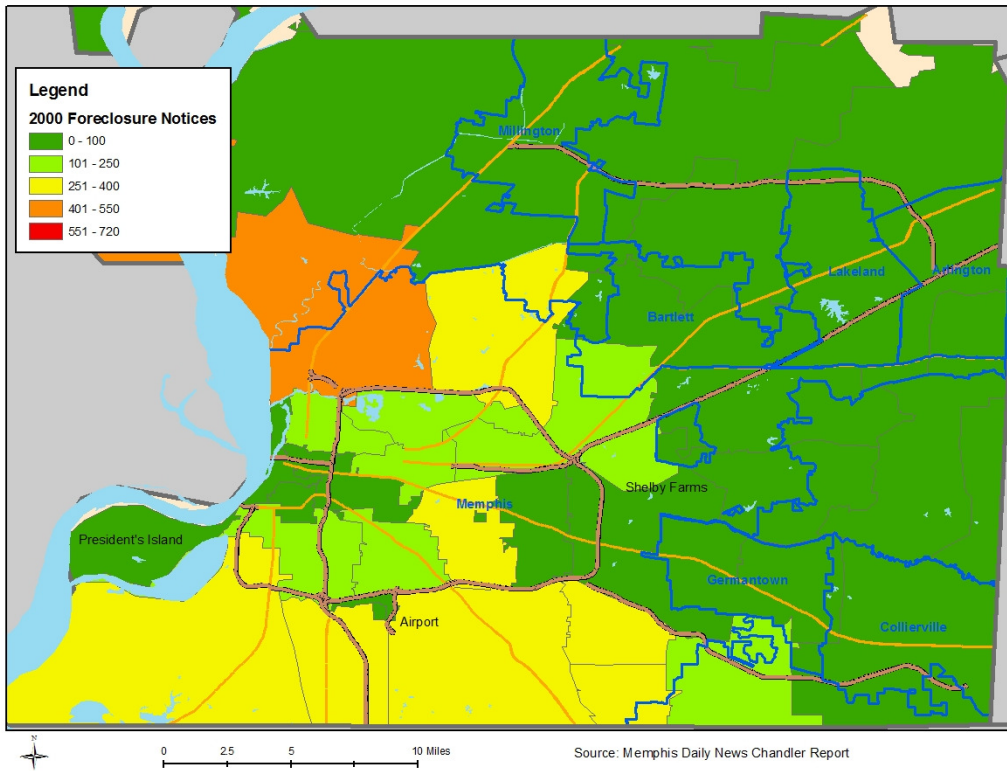


Selected Monthly Owner Costs Greater Than 35% of Income

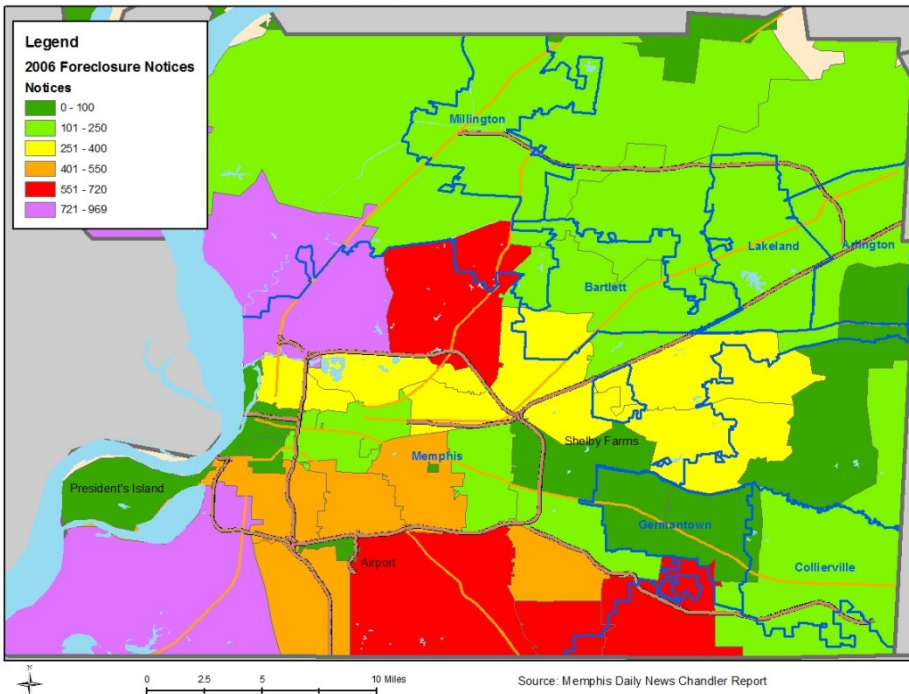


The next three maps show the numbers of foreclosure notices, by census tract, throughout Shelby County for 2000, 2006, and 2010. These maps show marked increases in the numbers of foreclosures initiated overall from 2000 to 2006, and interesting distribution patterns. Most noticeably, there is a positive correlation between those census tracts with higher concentrations of people of color and foreclosures.

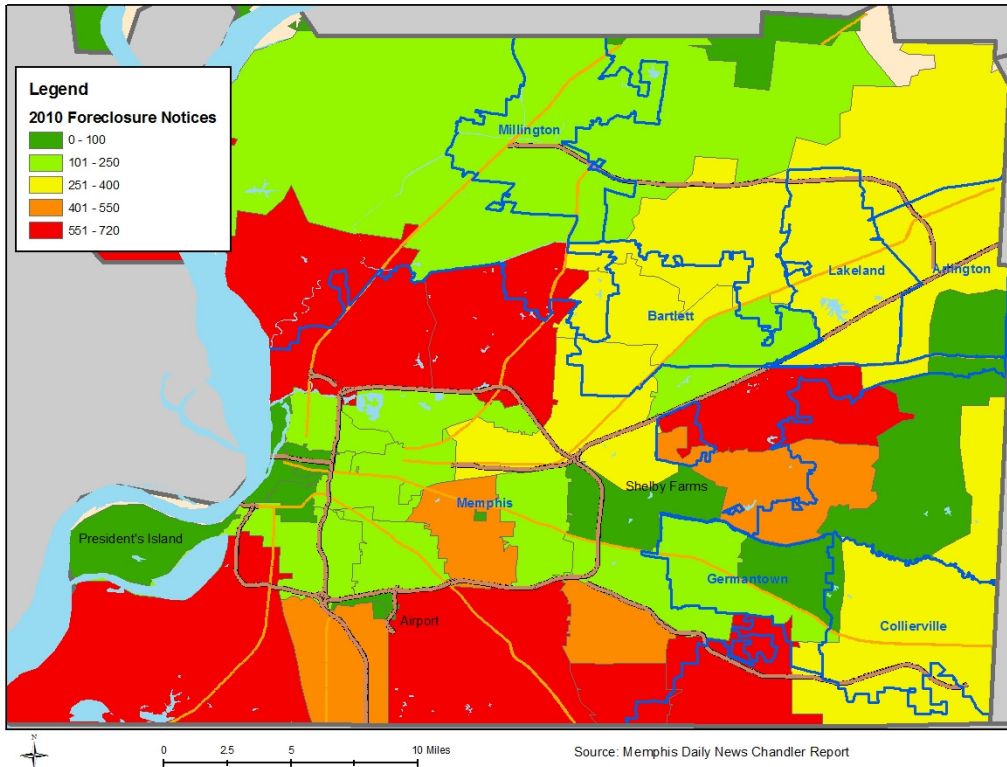
2000 Foreclosure Notices



2006 Foreclosure Notices

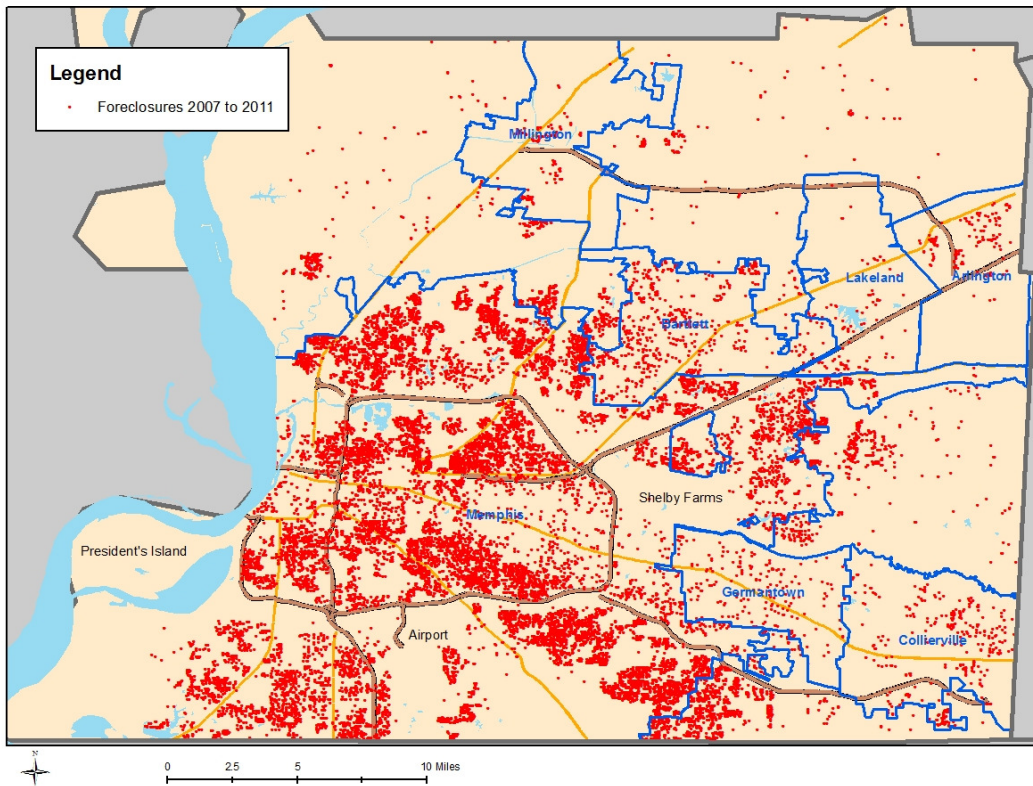


2010 Foreclosure Notices



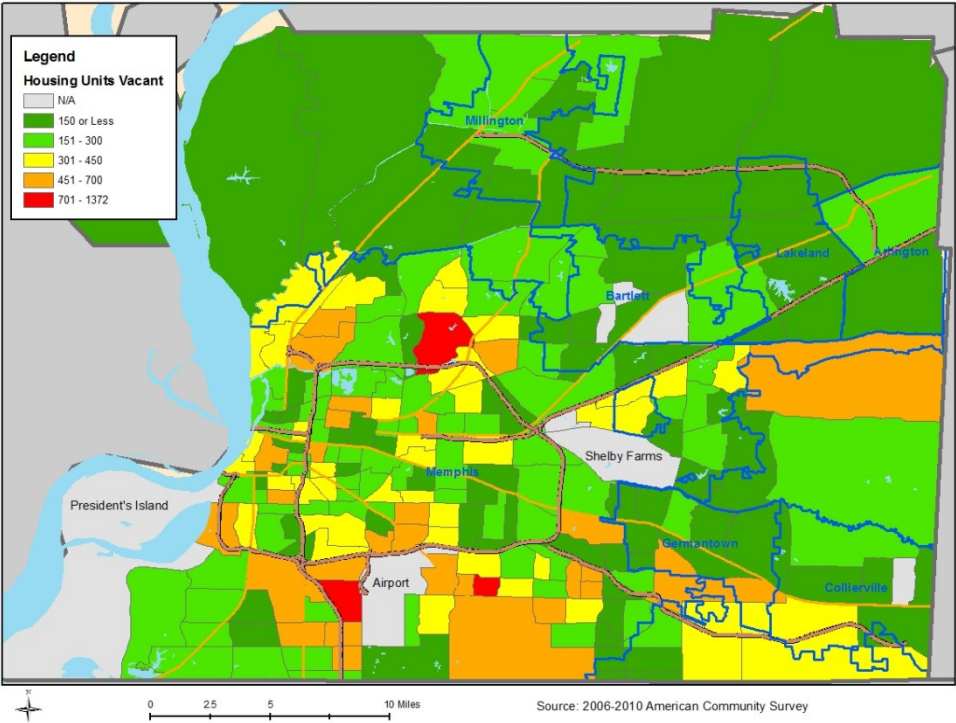
The following dot density map shows the consummated foreclosures throughout Shelby County for the period from 2007 through 2011. This map shows heavy concentrations or clusters of foreclosures, which reflects both the likelihood of “reverse redlining” or targeting of African-American neighborhoods for predatory loans and extreme declines in home values. High concentrations of foreclosures would also indicate blighting.

Residential Foreclosures 2007 to 2011



The following map shows the numbers of housing units vacant by census tract, across Shelby County. This map is indicative of blighting in areas with the highest concentrations of vacant units. There is a positive correlation with high concentrations of African-American and racial minority households and with areas with high numbers of foreclosures.

Housing Units Vacant



IMPEDIMENTS AND RECOMMENDATIONS FOR AN ACTION PLAN TO ADDRESS THEM FOR SHELBY COUNTY RURAL URBAN CONSORTIUM ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING

Impediment # 1. There is an inadequate supply of decent, affordable housing for people of low and moderate income in Shelby County, as a whole, and particularly in areas outside the City of Memphis.

When demographic data showing substantial disparities in income and wealth between racial and ethnic groups is considered, the lack of decent, affordable housing must be seen as a fair housing issue. Likewise, substantial disparities in income and wealth exist between people with disabilities and those without, as well as female-headed households. The result is lack of decent, affordable housing for members of protected classes. There are a number of individual impediments that contribute to this large conclusion.

The demographics of Shelby County, which indicate that members of protected classes need affordable housing more than non-members and that the affordable housing that does exist in Shelby County tends to be in “urban deserts” that are heavily concentrated with households that are made up of some or all protected class members significantly segregates protected class members into pockets of the community.

Impediment # 1. a) Standard rents exceed the Fair Market Values established by HUD and Memphis Housing Authority for Housing Choice Voucher holders

Rental prices in much of unincorporated Shelby County and the cities making up the consortium exceed the Fair Market Rents established by HUD for the Memphis area. This reflects a wide disparity in rental values throughout the county and has the effect of concentrating Housing Choice voucher holders in “impacted area” that have an extremely high percentage of residents

who are members of racial and ethnic minorities. This factor is complicated by the fact that MHA has elected not to raise the approved rental amounts to 120% of the established Fair Market Rents.

Recommended Action # 1. a) Memphis Housing Authority should seek to participate in HUD's Small Area Fair Market Rent Demonstration Project and, possibly consider raising approved rental amounts to 120% of the established Fair Market Rents.

HUD's Housing Choice Voucher Program has been terribly flawed in metropolitan areas by virtue of the fact that rental values vary to such an extent that vouchers can very often only be utilized in "impacted" areas of high poverty and low opportunity and not used in areas of high opportunity and low concentration of racial and ethnic minorities. This is an impediment to fair housing and exacerbates segregation by race, ethnicity, and wealth. Memphis and Shelby County are prime examples of this problem. Recognizing the systemic flaw, HUD has created a Small Area Fair Market Rent Demonstration Project (SAFMR) to break the calculation of fair market rents down to a Zip Code or county level. By this method, the fair market rent for a unit in Germantown, for example, would be substantially different than for a home in south Memphis or Frayser. It is readily apparent that this change would have a drastic effect on expanding housing opportunity into "high opportunity areas" with access to jobs, good schools, healthy food, quality medical care, for voucher holders. Metropolitan housing authorities could apply to participate in a demonstration project for SAFMR until July of 2011. Unfortunately, Memphis Housing Authority did not make application for the demonstration project. If there is a second opportunity to apply, MHA should seriously consider doing so.

Another possible action that MHA could take to help expand housing choice into high opportunity areas would be to raise approved rental amounts to 120% of the fair market rents established through HUD's methodology. Local housing authority's have the discretion to do

this; however, the last time it was considered by the MHA Board of Directors a decision was made not to take this action because HUD had reduced voucher funding to MHA and a percentage increase would reduce the number of families that could receive a subsidy. Both of these proposed actions could result in a reduction of the number of families receiving assistance, but this must be balanced against the quality of life for those families that do receive assistance and increasing segregation of housing.

The Tennessee Housing Development Agency (“THDA”) administers a much smaller amount of Housing Choice Vouchers in the consortium areas. Given the wide range of rental values over the service area, it would also be appropriate for it to consider attempting to participate in the SAFMR project and raising rent subsidies to the maximum allowed under current Fair Market Rents.

Impediment # 1. b) There is a limited amount of Low Income Housing Tax Credit development in Shelby County

For a variety of reasons, few developers have elected to use this kind of financing for developments in unincorporated Shelby County and the cities making up the consortium. This is a major impediment to development of more affordable housing in those areas.

Recommended Action # 1. b) Concerted Effort Should Be Made By Local Governments to Encourage Local Developers to Use LIHTC Funds to Build and Renovate Affordable Multi-Family Housing in Non-Impacted Areas.

Local governments could play a much more active role in identifying affordable housing needs and soliciting and encouraging potential developers to make proposals for LIHTC projects.

Although LIHTC is intended to encourage private sector development, the level of activity in Shelby County demonstrates that it is not working well locally with governments taking a “hands off” approach. Local governments should take a more proactive approach and, to the extent

permitted by IRS regulations and other applicable law, offer incentives that would make LIHTC projects more appealing and feasible to potential developers. This could include such ideas as land grants or subsidies and local property tax incentives.

Some potential developers complain that they cannot understand the LIHTC process or rules.

Local governments could play a critical role in providing technical assistance to help encourage promising LIHTC proposals in Shelby County.

Impediment # 1. c) Land acquisition costs

Again, the wide disparity in property values between “impacted areas” and those in other areas, particularly those in unincorporated Shelby County and the cities making up the consortium, make development of affordable housing in those areas very difficult, if not impossible.

Recommended Action # 1. c) The Shelby County Government and the Other Members of the Consortium Should Actively Support the Creation of an Effective Land Bank to Facilitate the Development of Affordable Housing

One of the major factors that tends to keep affordable housing concentrated in low-opportunity, high-poverty, urban deserts is land acquisition costs. Land is obviously much cheaper in those areas than in more affluent areas. One possible way to help ameliorate this obvious factor is through land banking. There does exist a Shelby County Land Bank where property sold at tax sales but not purchased by an investor is deposited. There are numerous impediments that prevent this from being an effective way to lower acquisition costs for developers of affordable housing. Currently, the Shelby County Land Bank owns approximately 750 acres of land, which could be a valuable resource for development of affordable housing.

An innovative project in Baltimore, Maryland has had a great deal of success in strategically turning city-owned vacant property into affordable housing. The project identifies publicly-

owned land (much of which is in depressed areas) that is relatively close to thriving neighborhoods for development by non-profits. The goal is to provide housing and move the lines of prosperity one block at a time.

There are ongoing local efforts to start an effective land bank project; however, those efforts have been slow to take hold and enabling legislation would have to be passed before an effective local land bank could be created. The administrator of the land bank would have to be cloaked with much more authority than now exists. A statewide group with a nationally recognized consultant is working on the creation and passage of good enabling legislation; however, this will likely be a three to four-year project.

The members of the consortium should actively support the efforts to allow local governments to more effectively use property acquired at tax sale to support development of affordable housing, especially in areas of potentially higher opportunity, by making land grants or facilitating low-cost land acquisition.

Impediment # 1. d) Tax Rates for Rental Housing Make It Difficult to Provide Decent, Affordable Housing.

The tax rate for multi-family rental housing is substantially higher than the rate for single-family housing, which is a substantial disincentive or impediment to providing affordable housing that is not subsidized. While Shelby County is heavily dependent on property tax revenues and has serious budget challenges, the decision to tax multi-family rental housing at a higher rate than single family housing has a cost in promoting housing choice through access to quality affordable housing throughout the county. It would seem that there is room for promoting affordable housing by offering tax rate incentives to developers who commit to leasing a percentage of their units to low-income people.

Recommended Action # 1. d) Local Governments Should Consider Revising the Property Tax Structure to Lower the Rate for Multi-Family Developments That Make Specific Commitments to Affordable Housing

Currently, multi-family housing is considered “commercial” or “industrial” for property tax purposes and taxed at the rate of 40%, as compared to property that is classified as single-family, duplex, or condominium residential property, which is taxed at 25%. The tax rate makes it difficult for developers to provide affordable housing without a substantial government subsidy. Local governments should consider reducing tax rates for multi-family housing where a fixed number of units are committed to affordable housing as an incentive to get developers to commit to providing housing for low and low-moderate income people. Obviously, this would reduce property tax revenues but that must be balanced against the effect in opening housing opportunities in higher opportunity areas and in fulfilling governmental responsibility to affirmatively further fair housing.

Impediment # 1. c) The Rural Urban Consortium gets a relatively small amount of Community Development Block Grant and HOME funds

In many jurisdictions, these HUD-administered funds are used to subsidize and incentivize the development of affordable housing; however, unincorporated Shelby County and the cities making up the consortium get a relatively small amount of these funds compared to the City of Memphis. This leads to a situation in which what affordable housing development occurs tends to be in “impacted areas” within the city- further exacerbating racially segregated housing patterns.

Impediment # 1 f) Lack of other resources and incentives to develop affordable housing in the consortium area.

It is difficult to develop affordable housing, especially for the very poor without substantial subsidies or other incentives. There are little or no other governmental or philanthropic resources or incentives for affordable housing development within the geographical area of the consortium.

Recommended Action # 1. f) Support for Creation of a County-Wide Housing Trust

One potential source of funding for affordable housing and other special housing needs is creation of a local, county-wide Housing Trust. Several years ago a large and diverse group of stakeholders worked as a commission to explore opportunities for creation of such a Housing Trust. The Assissi Foundation funded facilitation and a final report of the group's activities and findings was published. The concept was to create a quasi-governmental private body to administer the Trust, with close ties and board appointments by city and county mayors. The biggest obstacle was finding funds to create the corpus of the Trust and a dedicated revenue stream. One potential source of one-time funding identified was settlement or judgment proceeds from discriminatory/predatory lending litigation mentioned elsewhere in this document.

Another potential revenue source for a housing trust fund would be a percentage of fines and civil penalties assessed for housing code violations or violations of the Anti-Neglect ordinance through the Environmental Court.

To the extent that these efforts to create such a Housing Trust continue, the Shelby County government and members of the consortium should actively support and participate in them.

Impediment # 2. There is a lack of accessible housing for people with disabilities throughout Shelby County.

Much of the multi-family housing stock in Shelby County was built and occupied before the accessibility requirements of the Fair Housing Amendments Act went into effect in March of 1988. Two HUD-funded studies in the last decade performed jointly by the Memphis Center for Independent Living and the Memphis Fair Housing Center have documented wide-spread non-compliance with the design and construction requirements of the FHAA in those complexes that were occupied after March of 1988. The result is a critical dearth of accessible housing for people with disabilities throughout Shelby County.

Recommended Action # 2. Some or all of the Following Actions Should Be Considered as Means to Increase Accessible Housing Opportunities for People with Disabilities.

It is well- documented that accessibility to housing for people with disabilities continues to be a major problem and fair housing issue in Memphis and Shelby County. Despite a great deal of effort on the part of disability rights and fair housing advocates, the degree of change has been very disappointing and is unacceptable. This section makes several specific recommendations aimed at preventing the construction of future multi-family housing developments that do not comply with the Fair Housing Amendments Act, the Americans with Disabilities Act, or Section 504 of the Rehabilitation Act. It also makes specific recommendations about remedying existing housing developments that have illegal barriers to access. Finally, it makes some recommendations about going beyond minimal compliance with accessibility laws and embracing public policies that will establish best practices in accessibility in housing choice.

Impediment # 2. a) The Construction Code Office Should Take a Much More Active Role in Inspecting for Compliance with the Fair Housing Amendments Act in new residential construction.

Two HUD- funded surveys of multi-family housing first occupied after the effective date of the Fair Housing Amendments Act revealed very widespread violations of the Act. Four lawsuits were brought and numerous administrative complaints were filed as a result of the survey findings and a large number of barriers were eliminated. The obvious question this fact engenders is why these violations were not identified and remedied before construction was completed and Certificates of Occupancy issued. There are a number of potential reasons, but it is clear that greater emphasis needs to be put on prospectively eliminating barriers to accessibility. Some specific corrective actions that could be taken are comprehensive and ongoing training on the architectural barriers requirements of the FHAA and creation of a specific checklist for compliance with the FHAA in all covered new construction developments.

Recommended Action # 2. b) Shelby County and Municipalities in the Consortium Should Try Informally to Force Owners of Multifamily Housing Complexes Within Their Jurisdictions to Cure Documented Violations of Law and, When Necessary, Bring Administrative Complaints or Civil Lawsuits to Force Compliance.

This proposed action may sound radical to some: however, given the severity of this problem and the clear duty of CDBG and HOME funds recipients to affirmatively further fair housing, it should be seriously considered. The Fair Housing Act has very broad standing provisions and the local governments could maintain such an action. If litigation proved to be necessary, a “prevailing party” may recover attorney’s fees in addition to monetary damages and injunctive and declaratory relief.. Finally, one or two such actions would give tremendous leverage in getting voluntary compliance from others.

Recommended Action # 2. c) Consortium Members Should Consider Creating a Revolving Fund to Allow Homeowners and Tenants in Non-Covered Rental Units to Make Modifications Permitted by Law to Make Their Homes Accessible.

As set out throughout this document, the majority of rental housing developments covered by the FHAA have illegal barriers to accessibility. Perhaps the greater problem is that the vast majority

of rental housing units are not covered by the FHAA, primarily because of the age of the property. The FHAA permits tenants with disabilities to make modifications, at their own expense, to their homes to make them accessible. They must restore the property to its original condition at the end of their tenancy. Because people with disabilities have statistically less income than others, they are often unable to avail themselves of this right.

One potential solution is the creation of a need- based revolving fund to permit a disabled tenant to make necessary modifications. Settlement proceeds from an FHAA lawsuit brought on behalf of the Memphis Center for Independent Living were used successfully in this way and later augmented by the City of Memphis. This endeavor can dovetail with the preceding recommendation as recovery or settlement from an action by a local government can become the corpus, or part of it, for the revolving loan fund.

Recommended Action # 2. d) Shelby County and the Municipalities Making Up the Consortium Should Join with HUD, the City of Memphis, and Advocacy Groups to Sponsor Quality Training on Accessibility Issues.

In recent years, HUD, the City of Memphis, the Memphis Fair Housing Center, the Fair Housing Alliance of Greater Memphis, and the Memphis Center for Independent Living have put on several training events regarding accessibility requirements for architects, civil engineers, lawyers and others. The county and consortium members should actively participate and help underwrite/ sponsor such events in the future.

Recommended Action # 2. e) Any Residential Housing Supported With CDBG or HOME Funds Should Be Conditioned on Compliance With Visitability Standards.

At present, there are no laws or ordinances that require that residences not covered by the FHAA or Section 504 of the Rehabilitation Act be accessible to visitors who have disabilities; however, Progressive public policy would dictate that public funds used to provide housing should carry

this requirement. More than 27% of people in the area have a disability as defined in the Fair Housing Amendments Act. Others have temporary mobility impairments as a result of injury or illness. This percentage is likely to increase as a result of an aging population. Therefore, it makes abundant sense encourage development of accessible housing beyond minimum standards required by law.

Some have expressed a concern that such a requirement would drive up costs and reduce the amount of aid available. The requirement should apply only to funds used for building or substantially renovating housing. For example, if money were provided to repair a roof, it should not kick in a requirement to eliminate steps or widen doorways. On the other hand, if doors are being replaced, the new doors should meet universal design requirements.

Impediment # 3. Rental property managers throughout Shelby County do not understand the duty to make reasonable accommodations for people with disabilities.-

This has been a serious problem for some time, especially with respect to people with psychiatric disabilities. There have been innumerable complaints to the Memphis Fair Housing Center involving attempts to evict a tenant with a psychiatric disability after the tenant has gotten off medication and has begun to engage in behavior that annoys other tenants or management.

Recommended Action # 3. Much More Extensive Training Should Be Provided to Landlords or Managers of Rental Housing regarding the Duty to Make Reasonable Accommodations for People with Disabilities.

According to most current available statistics, 27% of the people in Shelby County have a disability as defined in the FHAA, the Tennessee Human Rights Act, and other relevant laws. A significant percentage of them have a mental disability. All people with disabilities are entitled to “reasonable accommodations” to allow them to enjoy the benefits of housing opportunities on

the same terms as people without disabilities. This is probably the least understood and most misinterpreted provision of fair housing laws.

Failure to make reasonable accommodations for people with psychiatric or other mental disabilities has been the most frequent fair housing complaint made within Shelby County in recent years.³

Many of these complaints involve evictions because a tenant with a psychiatric disability who has created a disturbance. If the disturbance did not involve a legitimate threat to the health or safety of another tenant or employee of the landlord, the tenant may be entitled to a reasonable accommodation, such as monitoring of psychotropic medication in order to allow him/her to continue their tenancy. This is a frequent issue in publicly- funded housing for people with disabilities as well as private housing.

Because this is such a misunderstood area of law, the members of the Consortium should join forces with the City of Memphis, HUD, and advocacy groups to provide concentrated training in the area of reasonable accommodations. This had become such an issue in Memphis Housing Authority a few years ago that the author was engaged to provide detailed training to all MHA property managers on the nuances of reasonable accommodation requirements. This training seemed to be successful in lessening the number of complaints made against MHA.

Impediment # 4. There is abundant evidence of discriminatory lending throughout Shelby County, which ultimately denies protected class members housing choice and quality of life.-

Historically, lending discrimination was measured by denial of credit; however, the explosion of predatory and sub-prime lending changed the paradigm to a point that almost anyone could get a

³ According to statistics from the Memphis Fair Housing Center.

mortgage loan. The relevant issue became the terms of credit, rather than the denial rate. There are a number of specific impediments related to the broad heading of discriminatory lending.

Memphis and Shelby County were hit extremely hard by the explosion of predatory and subprime lending that ultimately caused the collapse of the national economy and, even more pronounced, the collapse of the housing market. While the State of Tennessee, as a whole, did not suffer as badly as some states, the greater Memphis area was clearly one of the hardest hit urban areas in the nation. There was an extremely high volume of predatory lending in Shelby County leading up to the Fall of 2007 when the market collapsed, which has led to excessive foreclosures, loss of home equity and wealth, and blighting in some areas.

Between 2000 and 2007, the number of foreclosure notices published in Shelby County increased from 4,609 in 2000 to 10,515 in 2007. This is a 157% increase. According to figures from the Shelby County Tax Assessor's office, there were more foreclosures and "distressed" sales in Shelby County in 2008 than "arm's length" sales between willing sellers and willing buyers. The biggest factor in creating this crisis is the proliferation of irresponsible and, in many cases, predatory sub-prime mortgage lending.

For example, 89 to 93% of sub-prime loans made between 2004 and 2006 have "exploding" adjustable interest rates. The typical reset will result in an increase of 30 to 50% in monthly mortgage payments. The interest rates reset on 2,820 sub-prime loans in Shelby County in 2008, which has caused or will cause many of those borrowers to default on their loans and go into foreclosure.

The problem continues to worsen. According to Realty Trac figures for April of 2008, 42% of foreclosures statewide were in Shelby County and Shelby County foreclosures were more than

four times the number in Davidson County (Nashville), which had the next highest number in the state, even though their populations are comparable.

***(Needs to be updated. Can we plug in new figures from Chandler?) From 2000 through 2007, more than 72,000 homes in Memphis and Shelby County have been the subject of foreclosure proceedings. The foreclosure crisis has caused severe economic damage to the City and County. The high rate of foreclosures has or will result in lost revenue in property taxes, additional costs in social services and police and fire protection, and significant administrative and legal costs.

The mortgage lending crisis is not a racially or ethnically neutral phenomenon. There is a large amount of data that supports the fact that “reverse redlining” was rampant throughout Shelby County. Reverse redlining is a lending practice whereby people in predominantly minority communities are targeted for exploitative loans, particularly refinance or equity loans.

Home Mortgage Disclosure Act data shows an extremely pronounced concentration of “high cost” loans in minority communities. An examination of ten Zip Code areas in Shelby County with a high concentration of African- American residents (more than 70% according to the 2000 census) reveals that 56 % of loans made in those areas in one recent year were sub-prime loans as compared to 36 % for Shelby County as a whole. By contrast, in 14 Zip Code areas with high concentrations of Caucasian residents (more than 70 %) only 24 % of the residential mortgage loans made in the same year were sub-prime loans. Reliable research indicates that sub-prime loans are seven to ten times more likely to end in foreclosure than prime loans. Not surprisingly, then, more than 4% of the owner-occupied homes in predominantly African-American Zip Code areas were foreclosed in 2008 compared to 1% of the owner-occupied homes in predominantly Caucasian Zip Code areas. It is easy to see that

this pattern, spread over a decade has caused exponentially greater damage in the African-American community than elsewhere.

There is very purposeful targeting of minority communities (particularly the African-American community in Memphis) for risky, high-cost loan products. This practice is called “reverse redlining” and it involves aggressively peddling toxic loan products in areas where prime loans were historically unavailable because of “redlining”. This is done through such practices as saturating minority-oriented radio and television programming with advertising; targeting areas with high percentages of minority residents for mailings and “cold calls”; making presentations in African-American churches and other institutions; and developing relationships with African-American mortgage brokers. There is abundant evidence that sub-prime lending is not “colorblind”, but that it’s very origins were based on exploiting people who had limited prime credit opportunities and, because of that, limited experience and sophistication in matters of banking and finance.

According to a recent study by the North Carolina based non-profit Center for Responsible Lending called Foreclosures by Race and Ethnicity: the Demographics of a Crisis, the loss of wealth in “communities of color” may be as great as \$350 billion, an amount greater than the costs paid by Gulf Coast states in response to Hurricane Katrina. That study found that for every 100 African-American homeowners, 11 have either lost their homes to foreclosure or at imminent risk of foreclosure. For Latino families the figures are even worse, as 17 of every 100 homeowners are affected by foreclosure.

It is not just families who have gotten bad loans that are harmed by irresponsible lending. The cumulative effect of several foreclosures in a neighborhood adversely affects the values of all the

rest of the homes. In some neighborhoods, values have fallen by well over 50% over the past few years. This affects people who didn't even take bad loans. Where their homes may have been a \$100,000 asset a few years ago they may be worth only \$30,000 or \$40,000 now. Quality of life may have plummeted right along with property values. Many foreclosed houses remain vacant for long periods and become magnets for crime, vagrants, and fires.

Ultimately, this leads to blighting, which harms the individuals who lose their homes, neighbors whose property values and quality of life suffer, and, in the end, the entire community suffers.

In a remarkably courageous and proactive move, the Shelby County Commission voted to authorize litigation against as many as sixteen national mortgage lenders who had engaged in reverse redlining and contributed greatly to blighting in primarily African- American communities. The County Commission appropriated \$125,000.00 to fund the first stages of the litigation. In a very welcome act of cooperation, the Memphis City Council soon followed suit and appropriated a like amount and also authorized the same litigation.

In December of 2009, the City of Memphis and Shelby County initiated a federal lawsuit against Wells Fargo, based upon the Fair Housing Act, alleging that they had been damaged by blighting as a result of the Wells Fargo's targeting of African-American communities for risky high-cost loans that resulted in foreclosure at extraordinarily high rates.

Fifty-one percent (51%) of loans made by Wells Fargo to African-American households in Shelby County between 2004 and 2008 were sub-prime loans, while only seventeen percent (17%) made to Caucasians between the same years were sub-prime.

Between 2000 and 2008, the rate at which Wells Fargo loans went to foreclosure (or "death rate") in predominantly African-American neighborhoods was eight times greater than in

predominantly Caucasian neighborhoods. This astonishing disparity is twice the overall disparity of four to one in Shelby County. What this means is that while reverse redlining is a pervasive practice in Memphis, Wells Fargo's practices stand out as uniquely discriminatory.

Investigation has revealed that Wells Fargo Financial engaged in very aggressive marketing by making "cold calls" to consumers about whom they had information from prior financing, offering quick cash and loan consolidation. Virtually all of the loans offered were Adjustable Rate Mortgages, known as "2/28" or "3/27" loans with artificially low "teaser rates" for two or three years, which would rise every six months after the initial rate expired. Consumers were often promised that, in addition to cash and debt consolidation, they would get their current interest rate reduced by refinancing with Wells Fargo Financial. In many of these loans, the teaser rate would be lower than their existing rate; however, the interest rate would generally rise by more than six percent over the course of the loan making the real interest rate significantly higher than the current mortgage.

According to Affidavits of former employees filed with the Plaintiffs' Amended Complaint, the adjustable rate feature was almost never explained to prospective borrowers even up through the loan closing. Those consumers who were savvy enough to ask if they were getting a fixed rate loan were often told that it was "fixed for three years" and could be refinanced at the end of three years. Others were simply told falsely that the rate was fixed. These practices have been corroborated by sworn statements from Wells Fargo borrowers.

In addition to damages for loss of tax revenue and costs associated with blighting caused by Wells Fargo's lending practices, Shelby County and the City of Memphis seek other equitable relief that would benefit many Wells Fargo borrowers. They seek injunctive relief to require

Wells Fargo and its agents or successors in interest to participate in court-supervised mediation as a prerequisite to foreclosure of residential mortgages. Tennessee is a non-judicial foreclosure state and lenders or holders of Deeds of Trust can proceed directly to foreclose. Although Wells Fargo is a participant in the HAMP program, there is a wealth of information to suggest that bona fide proposals to modify or restructure mortgages are being ignored or rejected by Wells Fargo. Beyond that, Wells Fargo's HAMP program does not consider the instances of fraud, misrepresentation, or other illegal lending practices when considering modification proposals. Such mediation programs have been successful as special projects in judicial foreclosure states and this relief could help put a tourniquet on the ever-increasing numbers of foreclosures.

In addition, the county and city seek an order requiring Wells Fargo to make "A" loans to qualified borrowers in predominantly minority neighborhoods in the same proportion as it does in predominantly Caucasian neighborhoods.

Wells Fargo has tried to get the case dismissed for lack of standing; however, in a ruling earlier this year the U.S. District Judge who has jurisdiction of the case has ruled that the local governments do have standing to proceed with the case and it is now moving forward. To date only Memphis and Shelby County and the City of Baltimore, Maryland have been successful in going forward against a lender based upon violation of the Fair Housing Act.

Impediment # 4. a) Reverse redlining

In Shelby County, racial minorities, particularly the African-American community, were aggressively targeted for risky high-cost loans that have reversed decades of the narrowing of wealth disparity between Blacks and Whites and decimated many historically African-American

neighborhoods. The targeting of minorities that were historically excluded from prime loans for exploitative loans is called reverse redlining.

Impediment # 4. b) Equity stripping

Equity stripping generally takes the form of refinance or equity lending and generally involves a homeowner cashing in accumulated equity in a new mortgage loan that refinances the existing loan and provides some cash to the borrower. Lenders aggressively marketed equity loans in African-American communities in Shelby County, combining reverse redlining and equity stripping. Among other pathological effects, equity stripping deprives a borrower housing choice in that families have traditionally used equity from the sale of their home to finance a more expensive home. As a result of this practice, many borrowers are “underwater” and cannot sell their home or move.

Recommended Action # 4. a) Shelby County Should Press Forward With Its Federal Litigation Against Wells Fargo

This litigation is an outstanding example of how local government can act proactively and aggressively to affirmatively further fair housing in a context where the problem was caused by private sector. In contrast to many situations in which local governments throw up their hands and say there is nothing they can do about a fair housing impediment caused by the private sector, Shelby County has taken very definitive action to address the situation and try to recover damages for losses it has suffered because of discriminatory lending.

As a result of the lawsuit and favorable court rulings, the county is well positioned to get settlement proceeds that can potentially be used to address some of the issues it faces. In addition, the county is well positioned to get injunctive and other equitable relief that can help to

stem the tide of local foreclosures and require Wells Fargo to make target numbers of prime loans in neighborhoods that had previously been targeted for subprime loans.

Recommended Action # 4. b) Shelby County Should Follow Through on the County Commission's Resolution to Bring Similar Actions Against Others Lenders Who Have Contributed to The Blighting Problem Through Their Discriminatory Lending Practices.

Although Wells Fargo's discriminatory lending practices may have been the most egregious in Shelby County, they were by no means the only national mortgage lender engaging in reverse redlining or discriminatory lending.

An examination of ten Zip Code areas (38126; 38109; 38106; 38114; 38116; 38107; 38105; 38118; 38127; and 38108) with a high concentration of African- American residents (more than 70% according to the 2000 census) reveals that 56 % of loans made in those areas were sub-prime loans (loans with interest rates more than 3% above the comparable Treasury Bill rate) as compared to 36 % for Shelby County as a whole. By contrast, in 14 Zip Code areas (38139; 38138; 38117; 38120; 38018; 38133; 38135; 38017; 38119; 38002; 38122; 38053; 38134; and 38104) with high concentrations of Caucasian residents (more than 70 %) only 24 % of the residential mortgage loans made in 2006 were sub-prime loans. Research by the Local Initiatives Support Corporation ("LISC") indicates that sub-prime loans are seven to ten times more likely to end in foreclosure than prime loans. This gives clear evidence that many lenders were engaging in targeting minority areas for loans that were likely to fail.

There were 2646 completed foreclosures in those same heavily African- American Zip Codes in 2008. This accounts for 42 % of the foreclosures in Shelby County even those areas make up only 29 % of the county's owner- occupied homes. Stated differently, more than 4% of the owner-occupied homes in predominantly African-American Zip Code areas were

foreclosed in 2008 compared to 1% of the owner-occupied homes in predominantly Caucasian Zip Code areas.

By contrast, there were 14 Zip Code areas in which more than 70% of the residents are Caucasian (38139; 38138; 38117; 38120; 38018; 38133; 38135; 38017; 38119; 38002; 38122; 38053; 38134; and 38104). There were 1490 actual foreclosures in those areas in 2008 according to 2000 census data. This accounts for only 21% of the foreclosures even though those areas make up 45% of the owner occupied homes in Shelby County. Stated differently, 1% of the owner-occupied homes in the predominantly Caucasian Zip Code areas were foreclosed in 2008, compared to more than 4% in predominantly African-American Zip Code areas. An owner-occupied home in a predominantly African- American Zip Code area in Shelby County is more than four times more likely to end up in foreclosure than one in a predominantly Caucasian Zip Code.

Given the devastation caused to minority communities and the financial damage to the county as a whole by reverse redlining the county and city governments should expand the litigation started with Wells Fargo and hold other lenders who engaged in discriminatory lending accountable for their portion of the damages suffered locally. The Wells Fargo litigation is a successful template for similar actions against other bad actors and there is already a lot of evidence accumulated to support those cases. Moreover, the initial litigation fund has not nearly been depleted. The litigation is a wise investment in the county's future.

Impediment # 4. c) Foreclosures

Discriminatory lending often leads ultimately to foreclosure. There is overwhelming documentation that the enormous problem of foreclosures in Shelby County is concentrated

disproportionately in identifiably African-American communities. Recent data suggests that loans end in foreclosure three to four times more frequently in neighborhoods with 70% or more African-American households than in neighborhoods with 70% or more Caucasian households. This has led to severe blighting and further loss of property values in those African-American neighborhoods.

Recommended Action # 4. c) Shelby County and Members of the Consortium Should Support the Protecting Tennessee Homeowners' Act or Similar Legislation Requiring Meaningful Mediation to Address the Issues of Underwater Borrowers and Foreclosure

As mentioned above, mortgage borrowers in Tennessee have little protection from illegal or unwarranted foreclosures because Tennessee is a “non-judicial foreclosure” state, meaning that a lender or mortgage servicer does not have to get court approval before foreclosing.

There is an abundance of evidence showing that the HAMP program has been unsuccessful in assisting troubled borrowers. Mortgage servicers have not administered the program in a way that is conducive to assisting borrowers and the program has become a mindless bureaucratic exercise where borrowers seeking assistance are asked to submit extensive personal information over and over again while making no progress toward a loan modification. Many borrowers are told that they should stop paying their mortgage to qualify for assistance, only to receive a foreclosure notice once the loan is in default. Worse, many borrowers have been assured that a published foreclosure sale would be cancelled while the loan modification request was being considered only to learn later that their home had been foreclosed.

Aside from administration problems, there are two major structural problems that limit the effectiveness of HAMP. First, the program does nothing to help borrowers who are

underwater, or owe much more than their homes are worth. Second, the program does nothing to account for borrowers who were victims of fraudulent lending practices.

A bill was introduced in the Tennessee General Assembly two sessions ago that would have created a pilot mediation project in Shelby County allowing lenders to engage in meaningful foreclosure mediation as an alternative to foreclosure. Under the bill, which was modeled after “gold standard” mediation legislation from Washington State, a lender’s refusal to accept a loan modification proposal that would, on its face, net the lender more than a foreclosure sale is defined as bad faith. Bad faith would be a basis for enjoining a foreclosure sale. This would greatly help underwater borrowers by permitting them to make a proposal to reduce the principal indebtedness closer to the value of the property and would provide as much protection from foreclosure to borrowers as can be had in a non-judicial foreclosure state. The bill also required mediators to take into account illegal loan terms, fraudulent appraisals, and other common predatory practices in considering modification proposals.

The legislation has been opposed by local banks and the politically powerful Tennessee Bankers’ Association.

The governments making up the consortium should support this or similar legislation as a pilot project for Shelby County.

Recommended Action # 4. c) (2) Alternatively, Shelby County Should Consider an Ordinance That Would Require Mediation Before Foreclosure

The City of Providence, Rhode Island has passed such an ordinance, which has been challenged as being unconstitutional in appellate courts. Thus far the ordinance has been upheld. A similar ordinance was passed in Las Vegas, Nevada and is currently being challenged by Wells Fargo after an adverse ruling

Impediment # 4. d) Shadow inventory/ bank owned properties

There is abundant evidence that foreclosed properties remain vacant for significantly longer periods in African-American communities than in others, which contributes to blighting. There is growing evidence that there is a graphic difference in the ultimate disposition of foreclosed properties in African-American neighborhoods versus predominantly Caucasian ones; for example it appears that only 30% of Wells Fargo foreclosed properties in African-American neighborhoods are now owner-occupied while 70% of its foreclosures in Caucasian neighborhoods are now owner-occupied. There is also evidence that there is no effort to offer foreclosed properties for sale on the open market in many African-American neighborhoods, which further contributes to blighting.

Recommended Action # 4. d) Shelby County Should Bring Actions in Environmental Court Against Banks and Investors Who Fail to Maintain Vacant, Foreclosed Properties to Combat Blighting in Minority Neighborhoods.

One of the most harmful results of discriminatory lending and the foreclosures it causes is blighting. Blighting drives down property values and quality of life. When banks and mortgage lenders make irresponsible loans that result in excessive foreclosures it does great damage to the community. When those foreclosures are heavily concentrated in specific areas, it does even more damage. When the same banks that created the problem do not actively attempt to sell properties on the open market after foreclosure and let houses sit vacant and unattended, it can be the *coup de grace* for a neighborhood. In such a case, the bank's inaction leads directly to loss of value and quality of life in neighboring properties.

As mentioned above, it is not just families who have gotten bad loans that are harmed by irresponsible lending. The cumulative effect of several foreclosures in a neighborhood adversely affects the values of all the rest of the homes. Quality of life may have plummeted right along with property values. Many foreclosed houses remain vacant for long periods and become magnets for crime, vagrants, and fires.

Post-foreclosure vacant properties are a public nuisance and result in significant housing code enforcement costs for activities ranging from weed and grass cutting to boarding up properties to rodent control to demolition of houses. Frequent inspections of vacant properties and sometimes appearances in Environmental Court result in significant administrative expenses as well.

Vacant properties often result in fires. A recent study by the Mid-South Peace and Justice Center has found that a fire in a vacant property can cost local governments as much as \$17,500.

At the same time, foreclosures and vacancies result in significant reductions in property values, which reduces property tax revenue. Tennessee does not have a state income tax and local governments are highly dependent on property taxes to provide municipal services.

Almost as significant as post-foreclosure vacancies to neighborhood property values is the ultimate disposition of the property after foreclosure. An analysis of Wells Fargo foreclosed properties since 2001 by the University of Memphis' Center for Community Building & Neighborhood Action reveals another significant difference based upon the racial demographics of a neighborhood. In predominantly white neighborhoods (80% or more Caucasian households) 71% of the foreclosed properties ultimately became owner-occupied residences, while in predominantly African-American neighborhoods (80% or more African-American) only 34% are

now owner-occupied. The shift in percentage of owner-occupied homes to rental units also has an adverse effect on property values and quality of life.

Where banks or lenders have elected not to foreclose on vacant and abandoned properties; have foreclosed but refrained from recording a Trustee's Deed; have become the record owner of property but made a conscious choice not to prepare property for resale or even maintain it; or have sold bundled properties "as is" to investors who are simply stockpiling vacant properties at extremely low prices, they are creating and perpetuating a public nuisance.

The Anti-Neglect Ordinance provides the Environmental Court with a means to deal with property owners whose neglect of property causes a threat to health or safety of others or creates a public nuisance.

Shelby County government should work in concert with the City of Memphis to identify neglected bank owned property and bring actions in the environmental court to require them to bring the property into compliance with applicable housing code standards and hold them accountable for the public nuisances they have created.

To the extent that a pervasive pattern is found with respect to a particular lender, more systemic litigation in a court of record might be considered.

Impediment # 4. e) Other predatory consumer lending

Tennessee has very friendly laws for predatory consumer lenders. There is an extremely high volume of auto title pawn and payday loan businesses in Shelby County and they are overwhelmingly located in or near identifiably minority neighborhoods. These businesses are debt traps, permitting interest rates of 300% and 264%, respectively. It is widely believed that

borrowers who resort to these loans start a cycle of debt, which often escalates to a homeowner resorting to a predatory equity mortgage loan and, sometimes, foreclosure. It is clear that there is purposeful targeting of protected class members for this kind of exploitative lending, which is parasitic and preys upon the absence of more traditional loan options and the economic desperation of many minority households.

Recommendation # 4. e) Shelby County and Members of the Consortium Should Actively Support Legislation to Curtail Predatory Consumer Lending Practices.

The Shelby County Commission has taken a relatively strong stance against predatory consumer lending in the past, having passed an ordinance several years ago restricting the concentration of auto title pawn shops within a close radius of each other and proximity to schools and churches. This ordinance was intended to stop the proliferation of these toxic businesses in areas where they were saturated; which was primarily minority areas.

The Commission has also consistently passed resolutions supporting state bills aimed at curtailing these practices. Specifically, the Commission has passed resolutions supporting a comprehensive bill to revise the Tennessee Title Pledge Act to reduce the Annual Percentage Rate on those loans from 264% to 44%.

The consumer lending industry wields much power in the state legislature and, thus far, reform efforts have been unsuccessful. However, the Commission should continue to support reform legislation and make these bills a part of its legislative agenda, actively lobbying for the bills.

Impediment # 4. f) Absence of full service banks in racial and ethnic minority communities

Many segments of Shelby County have few, if any, full service federally or state chartered banks, which drastically increases the incidence of predatory lending mortgage and consumer lending.

Recommendation # 4. f) Shelby County and Members of the Consortium Should Consider Adopting a Policy of Only Doing Business With Banks That Provide Services Throughout the Entire Community.

Local governments have sizable financial accounts that provide some leverage to influence the policies and decisions of local banks. The importance of citizens having access to full-service banks in their neighborhoods as a means to combat exploitative lending industries is so great that members of the consortium should consider adopting policies whereby they would only do business with banks that had a presence in all areas of the county.

Impediment # 5. Discrimination and redlining in homeowners insurance affects housing affordability and quality of life for many protected class members.

National studies and testing across the country reveal that companies frequently discriminate in the provision of homeowner's insurance. This discrimination generally takes two forms; first is the refusal to write insurance policies in certain areas that have a high number of minority residents, second is the provision of less coverage for higher premiums in minority neighborhoods. Both of these practices drive up the cost of housing in racial and ethnic minority neighborhoods.

Impediment # 5. Shelby County and other Members of the Consortium Should Join With the City of Memphis to Fund an In-Depth Study of Homeowners Insurance Underwriting.

Fair housing organizations throughout the country have done systemic insurance testing to determine if, and to what extent, insurance redlining exists in their area. These are generally done

by having trained testers call various companies to get information and rate quotes for properties in various Zip Codes and census tracts throughout the community. Testers give fictitious personal information leading to assumptions about their race. These studies have, almost universally, shown substantial discrimination in insurance underwriting and have led to a number of groundbreaking lawsuits.

This is such an important issue, local governments should join to fund a systemic study of national homeowners' insurance companies.

Impediment # 6. Members of the Hispanic Community in Shelby County are Heavily Concentrated in Mobile Home Parks, Which are in Flood Plains, Where They are Exploited Because of Language Barriers and Lack of Sophistication in Consumer Issues.

Catastrophic floods in May of 2010 and 2011 brought to light some very disturbing information about exploitative practices of mobile home park operators that exploit primarily Hispanic residents. One large park was made up of virtually entirely Mexican national households. The park is in a flood plain and has suffered a number of severe floods in recent years. This information was not disclosed to prospective residents. The park owner, a national real estate trust with shares traded on the New York stock exchange, "sold" mobile homes to residents through Retail Installment Contracts with financing over fifteen years. Unknown to residents, the contracts had a provision that prohibited moving the mobile homes until the financing was paid off, locking them into high monthly rental fees for the lots on which the mobile homes sat for as many as fifteen years.

The Memphis Mobile City trailer park is in a designated flood plain and has experienced serious flooding problems over the years. According to the U.S. Army Engineer District in Memphis, there were major floods in the park in 1987 and 1995, apparently similar to the one in May of 2010, and many less severe ones in between. Another massive flood happened in 2011. Despite

this history of serious flood problems the defendants have taken no meaningful actions to protect residents from flooding and do not disclose the problem to prospective residents. It appears that, in some instances, management has falsely denied a flood problem even exists at the trailer park when asked about it directly.

What has also come to light are some very deceptive and exploitative consumer practices at Memphis Mobile City, and, upon information and belief other UMH Properties, Inc., properties in Tennessee which involve a set of transactions by which potential residents purchase mobile homes, which are already situated on a small lot or “pad” in the park, and finance them through security agreements of up to fifteen years. Purchase prices for new trailers are typically in the range of \$30,000 to \$35,000, which is in the range of a moderately priced motor vehicle. Vehicles in this price range are typically financed for no more than five years. Fifteen year financing of a debt of this size is very unusual, especially when the collateral is rapidly depreciating personal property. Potential residents are not offered the option to finance a mobile home for a shorter period, which causes a consumer to pay exponentially more interest than a loan of a shorter term. More importantly, it also locks them into a lengthy and expensive lease commitment.

Residents are required to make monthly installment payments for the mobile home and monthly lease payments for the small lot on which the trailers sit. Undisclosed to the potential residents is a clause buried in the agreement that prohibits moving the mobile home until the debt has been fully paid. Through this practice, the defendants lock residents into what amounts to a multi-year lease for an almost ridiculously over-priced small lot, in which the rent can be raised unilaterally over and over again through the term of the installment contract. In some instances the monthly pad rental exceeds the monthly payment for purchase of the trailer. The structure of

these transactions, combining a purchase of the mobile home with an undisclosed long-term lease obligation, has prevented residents at Memphis Mobile City who were purchasing a trailer from that may be salvageable from moving it away from the site where it is likely to be flooded again.

A federal class action lawsuit has been brought on behalf of current and former residents of Memphis Mobile City.

Recommended Action # 6. a) Shelby County Should Closely Monitor Trailer Parks and Pass an Ordinance Increasing the Required Elevation of Trailers to at Least Two Feet Above the Flood Plain.

The County Commission did move to require that trailers be at least one foot above the flood plain, which has caused closure of some trailer parks that have flooded recently. However, the standard should be increased to comport with best practices.

Recommended Action # 6. b) Shelby County Should Consider an Ordinance That Would Require Businesses That Actively Market and Advertise in Spanish to Provide Spanish-Language Contracts or Lease Agreements.

Such a provision would impose a duty to provide Spanish- language translation ONLY if the housing provider actively advertises in print or electronic medium in Spanish. It is fundamentally inequitable for a business to actively solicit non-English speakers or those with limited English proficiency and then present the consumer with contractual documents that they cannot read.

Recommended Action # 6. c) Shelby County and the Consortium, Through its Fair Housing Officer, Should Make a Concerted Effort to Reach Out to the Growing Hispanic Community and Should Consider Joining with the City of Memphis and Advocacy Groups to Sponsor a Fair Housing Training Aimed Specifically to Families with Limited English Proficiency.

As the Hispanic population continues to grow, there is greater evidence of isolation of those with limited English- language proficiency in well-defined communities of national origin. While there may be many good reasons that people with common national origin and culture choose to

live in community, efforts should be made to assure that, to the extent this is the case, it is not the product of barriers to free housing choice. Limited English proficiency is a great barrier to free housing choice, as is lack of familiarity with fair housing rights and laws in the United States.

As shown in the demographic section of this document, the Hispanic population in Shelby County has grown by 2.8% since 2000. As set out herein, there is also evidence that some Hispanic home- seekers have been subjected to exploitation, largely because of their limited proficiency in English language.

Given these factors, it would be very appropriate, and even essential, to focus concentrated effort on fair housing education specifically for members of the Hispanic community. Because this is a county-wide issue, it is also an excellent opportunity for the local governments to work together to optimize resources to address this issue.

It is strongly recommended as well that an effective relationship be established with an advocacy group like Latino Memphis Connexion, both to establish trust and gain access to the population sought. Such an organization could also assist with language translation if there is no other or better means available.

Given these factors, it would also be appropriate to look toward establishing a “help-line” whereby those of national origin other than the United States could get prospective help with language interpretation and basic housing rights information.

Impediment # 7. There is a Critical Shortage of Appropriate Rental Housing for Large Families Throughout Shelby County.

Demographic data shows that racial and ethnic minority families have substantially larger household sizes than those of Caucasian households. The Shelby County rental market is

overwhelmingly made up of one and two bedroom apartments. Consequently, the shortage of three and four bedroom apartments constitutes a major impediment to families with children and racial and ethnic minority families. This problem is exacerbated by the devolution of public housing both through the Memphis Housing Authority and the Shelby County Housing Authority. There are a substantial number of three and four-bedroom freestanding houses that would better accommodate larger families; however, it is unclear how many of those homes are in the rental market and how many are “affordable”, especially in areas of higher opportunity.

Recommended Action # 7. a) Memphis Housing Authority Should Seek to Participate in HUD’s Small Area Fair Market Rent Demonstration Project and, Possibly, Consider Raising Approved Rental Amounts to 120% of the Established Fair Market Rents to Permit More Large Families with Housing Choice Vouchers to Lease Larger Single Family Homes.

Demographic data shows that a majority of single-family dwellings have two or three bedrooms; however, many families cannot afford to rent such houses and many available houses, especially in higher opportunity areas, do not currently fit within fair market rents.

It would also be appropriate for MHA and THDA, as local administrators of Housing Choice Voucher programs, to actively recruit owners of non-owner occupied freestanding houses with three or more bedrooms to participate in the housing Choice voucher program. It would also be appropriate for MHA and THDA, as local administrators of Housing Choice Voucher programs, to actively recruit owners of non-owner occupied freestanding houses with three or more bedrooms to participate in the housing Choice voucher program.

Recommended Action # 7. b) To The Extent That Shelby County or Consortium Members Assist in Developing Affordable Housing Through Land Banking, Housing Trust, PILOTs, Tax Increment Financing, or in Any Other Way, It Should Condition Assistance on Inclusion of an Appropriate Number of Three, Four, or Five Bedroom Units.

Traditional public housing once played a large role in meeting the need for low-income and moderate-income large families; however, the number of traditional public housing units has been greatly diminished through demolition. To the extent that local governments become more involved in creation of affordable housing, care should be taken to match the assistance provided with the need for appropriate housing for larger families.

Impediment # 8. There is an Inadequate Public Transit System Throughout Shelby County, but Particularly in Areas Outside the City of Memphis.

Demographic research shows a marked disparity in the incidence of automobile ownership between racial and ethnic groups, as well as between people with disabilities and others, and female-headed households and others. Lack of public transportation service in unincorporated Shelby County and cities in the consortium prevent many protected class members from being able to live in those areas because they cannot commute to work, school, doctors, church and other important destinations in their daily lives.

Recommended Action #8. Shelby County Should Join with the City of Memphis and Other Municipalities in Meeting with Memphis Area Transit Authority Officials to Try to Maximize Bus Service to Residential Areas with High Proportion of Families Without Automobiles.

This is a difficult issue because the Transportation Act does not require public transit companies to provide service into suburban areas; however, an effort should be made to match services with need to the maximum extent possible.

Impediment #9. Exclusionary Zoning Prevents Many Members of Protected Classes From Living in Cities in the Consortium.

Housing codes within some of the cities in the consortium contain minimum lot size requirements, restrictions on multi-family housing, and other prohibitions that have the effect of excluding low and moderate incomes households. When demographic data showing substantial

disparities in income and wealth between members of some protected classes and others is considered, these restrictions disproportionately exclude protected class members and have a segregating effect.

Recommended Action # 9. The Shelby County Fair Housing Officer, a Consultant with Expertise, and/or a Special Commission Should Thoroughly Review Zoning Codes in Municipalities Within the Consortium to Identify any Provisions That Would Unnecessarily Exclude Protected Class Members and Meet with Local Officials to Consider Alternatives.

There are sometimes very legitimate reasons for zoning requirements like minimum lot size where septic tanks, rather than sewer lines, are used for sewage disposal for example; however, where a community does not reflect the demographics of the county, especially in terms of racial and ethnic minorities any unnecessary restrictions that tend to exclude potential residents may be viewed with suspicion.

Interviews with city planners and officials of municipalities making up the consortium as well as review of specific zoning ordinances reveal that there are multiple zoning areas within most of the incorporated communities. With multiple municipalities in addition to unincorporated Shelby County, it would be impossible to analyze whether each of the exponential zones within the communities might have the effect of illegally excluding protected class members. Nonetheless, this may be the biggest area of potential concern within the consortium and merits further attention.

This analysis did not reveal any blatantly exclusionary restrictions such as minimum square footage for residences; however, there are a number of areas that have large minimum lot sizes and prohibitions on multifamily housing or duplexes, which could be seen as problematic. A more detailed review of applicable zoning ordinances and their effect would be a healthy endeavor.

Impediment #10. Restrictive Covenants in Many Planned Developments in Unincorporated Shelby County and Cities in the Consortium Prevent Many Protected Class Members From Living in the Areas.

According to interviews with city planners and independent research, it appears that many planned developments within unincorporated Shelby County and the cities within the consortium have restrictive covenants of minimum lot sizes, square footage requirements, and other requirements and restrictions that ensure homes will be unaffordable to low and moderate income people. Again, when significant income and wealth disparities between many protected classes and others are considered, the effect is to exclude a disproportionate number of class members.

The former Shelby County Fair Housing Officer mentioned several planned developments that not only had minimum square footage requirements and other restrictions that would inevitably severely limit the number of racial and ethnic minorities in the development, but also restrictions on such things as basketball goals visible from the street that seemed unfriendly to racial minorities and families with children.

Another city planner who was interviewed told of attending a community meeting held by a developer who wanted to build an upscale community that combined single family residences with limited commercial and multi-family housing units. He said that neighbors of the proposed planned development expressed a great deal of concern about the “class of people” who might be coming into the proposed rental units.

Recommended Action #10 a. To the Extent That Any Public Funds are Used to Support a Planned Development in the Consortium Area, Local Officials Should Insist That Covenants or Restrictions Should Not Have an Unnecessarily Exclusionary Effect.

Obviously, a local government cannot countenance an overtly exclusionary covenant, such as the racially restrictive covenants that are a part of this community’s history. This section primarily

addresses facially neutral restrictions that may have the effect of excluding protected class members, whether or not the exclusion is intentional. While the developments under consideration are private, local governments, such as those making up the consortium have a duty to *affirmatively further* fair housing, not just to refrain from discriminating. This being the case, it is very important that government not support or indirectly subsidize private developments that have policies or practices that perpetuate or exacerbate discrimination or segregation. This would mainly come into play with indirect assistance with infrastructure such as roads, sewers, utilities, and school construction.

To the extent that members of the consortium provide any direct or indirect assistance to private housing developments they must assure that they are not perpetuating segregated housing patterns.

Recommended Action # 10 b. Shelby County and Consortium Members Should Join with the City of Memphis, HUD, and Advocacy Groups to Offer Regular Fair Housing Training to Developers.

There is a natural antagonism between the desire of those who can afford it to create aesthetically pleasing communities and a societal value in having communities that are economically, racially, and ethnically diverse. Because of the long-term effects of pervasive race discrimination, lack of economic diversity still limits racial and ethnic diversity. The most current available census data shows significant differences in household incomes between Caucasian, African-American, and Hispanic households. Courts have generally tried to respect and balance these competing values, but they have been the source of a great deal of fair housing litigation.

It would be appropriate for local governments to offer concentrated specific training to housing developers to help provide guidance as to court decisions and trends.

Impediment #11. There are Virtually No Traditional Public Housing Units in Shelby County Outside the City of Memphis.

The Shelby County Housing Authority once had a limited number of traditional public housing units in the Northaven area but they have been demolished. Residents were given Housing Choice vouchers to relocate. The City of Millington has a small number of traditional PHA units, but there are few, if any, others. Since racial and ethnic minorities; female-headed households; people with disabilities; and families with children have statistically lower incomes in Shelby County than others, the absence of traditional public housing tends to limit housing choice for protected class members and limit the number of protected class members in the consortium area. Perhaps the biggest adverse effect of demolition of traditional public housing units has been on large low-income families. Older public housing complexes tended to have more three, four and five bedroom apartments than are found in the private sector. This has caused some problems for those who have been “vouchered out” of public housing.

Recommended Action # 11. Memphis Housing Authority Should Seek to Participate in HUD’s Small Area Fair Market Rent Demonstration Project and, Possibly, Consider Raising Approved Rental Amounts to 120% of the Established Fair Market Rents to Help Offset the Lack of Traditional Public Housing in the Consortium Area.

There are a substantial number of three and four-bedroom freestanding houses that would better accommodate larger families; however, it is unclear how many of those homes are in the rental market and how many are “affordable”, especially in areas of higher opportunity.

It would also be appropriate for MHA and THDA, as local administrators of Housing Choice Voucher programs, to actively recruit owners of non-owner occupied free-standing houses with three or more bedrooms to participate in the housing Choice voucher program. It would also be appropriate for MHA and THDA, as local administrators of Housing Choice Voucher programs,

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Impediment #12. Shelby County does not have a Fair Housing Ordinance.

The City of Memphis passed a Fair Housing Ordinance some years ago, which contains all the prohibitions and protections of federal and state law and, in addition, prohibits discrimination based upon the source of one's income. This provision prohibits refusal to rent to otherwise qualified holders of Section 8 vouchers. The rest of Shelby County has no prohibition on refusal to accept vouchers. This factor limits housing choice for voucher holders, who are disproportionately members of protected classes, and limits the number of protected class members in the consortium area. The absence of an ordinance also does not send a positive message about the county's commitment to fair housing.

Recommended Action #12. The Shelby County Commission Should Pass a Fair Housing Ordinance That Mirrors the City of Memphis' Ordinance to Provide for Uniform Fair Housing Enforcement Throughout the County and to Demonstrate a Commitment to Fair Housing Enforcement.

A fair housing ordinance is not a panacea to open housing opportunity, especially when local ordinances generally mirror federal and state laws and the Tennessee Constitution significantly restricts what remedies can be provided in a municipal ordinance. Nonetheless, it is important that there be consistency, if not uniformity, in fair housing enforcement.

Given the fact that the Tennessee Constitution does not permit a municipal ordinance to create a private right of action whereby a person can sue another for damages and that municipal fines are limited to \$50, a municipal fair housing ordinance should never be the primary means of enforcing fair housing laws in Tennessee. An individual or other entity that has been, is being, or threatened to be harmed by illegal discrimination in housing should look first to initiating a civil

action in a court of record with jurisdiction of federal and state fair housing claims.⁴ Unlike through a municipal ordinance in Tennessee, a plaintiff can recover both compensatory pecuniary and non-pecuniary damages as well as punitive damages in appropriate circumstances. In addition, a plaintiff can obtain injunctive and other equitable relief to stop the illegal practices. Standing to bring claims is very broad under the Fair Housing Act so that advocacy groups and even local governments can bring actions if they can show they are harmed in some way by the challenged practice.⁵ It is also through reported cases in courts of law that legal precedence is set through important case decisions interpreting and applying the fair housing laws to specific facts and circumstances.

In addition, those who do not have the means or inclination to file a fair housing lawsuit can avail themselves of the administrative complaint process through HUD, which administers the administrative process under the Fair Housing Act, or the Tennessee Human Rights Commission, which administers the Tennessee Human Rights Act, the Tennessee state fair housing law. HUD is currently under a “work sharing” agreement with THRC whereby most HUD complaints are sent to THRC for investigation. The administrative complaint process is relatively simple and is designed for lay people and one who is dissatisfied with the result of an administrative complaint can seek judicial review or abort the administrative process and initiate a lawsuit.

With the federal and state fair housing laws and procedures in place, one might wonder why a local fair housing ordinance is necessary. This is especially true if the protections offered under an ordinance are identical to those under state and federal law.

⁴ Both federal and state courts have jurisdiction over claims arising under the federal Fair Housing Act, while state courts have jurisdiction over claims under the Tennessee Human Rights Act. Federal courts can exercise discretionary pendant jurisdiction of claims under the Tennessee Human Rights Act where a federal claim is pending in the court.

⁵ Local examples are *The Memphis Center for Independent Living v. Makowsky & Ringle, et al* and *City of Memphis and Shelby County v. Wells Fargo*.

The City of Memphis opted to enact a fair housing ordinance with some enhanced protections beyond those offered under state or federal law. Specifically, the Memphis Fair Housing Ordinance prohibits discrimination based upon the source of one's income (which prohibits refusing to rent to an otherwise qualified applicant because they are a Housing Choice Voucher holder). The ordinance also prohibits discrimination based upon age, which is not a protected class in either federal or state law, and it creates a rebuttable presumption that failure to maintain rental property in which a majority of residents are members of a protected class in a fit and habitable condition is because of discrimination.

While many jurisdictions pass local fair housing ordinances that are mostly symbolic, Memphis chose to pass an ordinance designed to address specific local problems. Most specifically, at the time of the passage of the ordinance, there was a significant problem with private rental property managers not accepting applicants with Housing Choice (then Section 8 vouchers). This was especially problematic in that many former residents of traditional public housing were given vouchers to find alternative housing when thousands of units were demolished. That issue has been somewhat overshadowed by the fact that many of those rental housing complexes that were resistant to accepting applicants with vouchers now have rents that substantially exceed the permissible amounts established pursuant to HUD's Fair Market Rents. Nonetheless, the vast majority of cases brought under the ordinance have been because of refusal to accept vouchers. Of course, the source of income ordinance provision was only applicable within the Memphis city limits. This significantly interferes with the goal of providing meaningful housing choice and opportunities to those receiving voucher assistance.

Even though the dissonance between rental amounts in non-depressed areas and fair market rents has, at least temporarily, diminished the effectiveness of the prohibition on discrimination

against voucher holders, it is still an important protection and if the fair market rent problem is addressed as recommended in this document it may become much more important.

Shelby County should act purposefully to implement a fair housing ordinance that provides essentially the same protections as the mirrors the Memphis Fair Housing Ordinance. One problem exists in that the State of Tennessee has recently passed a law commonly called “Special Access to Discriminate”, which purports to prohibit local governments from passing non-discrimination ordinances that provide protections that are not found in existing state or federal laws. This law was apparently passed in response to proposed local ordinances that prohibited discrimination based upon sexual orientation in the workplace. On its face the law would seem to prohibit the county from enacting a fair housing ordinance that prohibits discrimination based upon source of income or age as does the Memphis ordinance. The county may monitor for constitutional challenges to the Special Access to Discriminate law or consider mounting such a challenge.

Impediment # 13. Shelby County No Longer Has a Fair Housing Officer.

The person who had served as Shelby County Housing Officer for many years recently retired and has not yet been replaced. The absence of a dedicated Fair Housing Officer could be interpreted as a lack of commitment to promotion of fair housing in Shelby County. The county and consortium need a focused attention on fair housing issues and it is important to have a person who is charged with that responsibility.

Recommended Action # 13. The County Should Move as Quickly as Practicable to Fill the Position of Fair Housing Officer and Should Provide the Person Selected with Authority and Funding to do the Job Effectively.

The position has now been filled so this is no longer an issue to be addressed.

Impediment #14. Many Governmental Actions Have an Unintended Adverse Effect on Housing Choice or Create an Unintended Barrier or Impediment to Fair Housing.

Recommended Action #14. Shelby County Should Name a Designated Person, Who May or May Not be the Fair Housing Officer, to Monitor all Resolutions and Proposed Governmental Actions and Give a Report on Fair Housing Implications Prior to Official Action on the Proposal.

Governments sometimes, through administrative or legislative action, that create unintended barriers to fair housing to which they are oblivious. A person with the clear authority and responsibility to monitor proposed actions and report to, for example, the County Commission periodically on any potential fair housing implications could drastically reduce the incidence of unintended consequences.

For example, at present if a proposal for use of public funds for an “affordable” rental housing development is being considered, there is no formal mechanism to inform decision-makers about the potential effects of such a development on the racial and ethnic diversity of the area. Decision- makers may, understandably, be focused on the need for affordable housing units, but may be oblivious to the segregating or integrating effect of the proposed project.

CONCLUSION

Shelby County and the Shelby County Rural- Urban Consortium face many challenges in creating a community where there is meaningful housing choice for all. There is no utopia; however, the Rural-Urban Consortium members, and particularly the staff of the Shelby County Housing and Community Development Division, have embraced the ideal of open housing choice and the need to systematically address all the impediments thereto. Some of the impediments that exist have developed over centuries and cannot be reversed in weeks or months; however, there must be purposeful attention given to addressing the barriers as identified in this document.

